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UNITED STATES OF AMERICA.

The VOTERS' GUIDE:

OR, THE

POWER, DUTY & PRIVILEGES

OF THE

Constitutional Voters

IN THE

Commonwealth of Massachusetts.

TO WHICH ARE ADDED,

Original remarks, with various extracts from Historians, and the writings and public Speeches of eminent political characters in this and other countries, tending to explain the causes of the Rise and Fall of Republican Governments.

By
ABIJAH BIGELOW,
ATTORNEY AT LAW.

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It is in the regions of ignorance that Tyranny reigns.
Life of Franklin.

LEOMINSTER: [*MAS.*]
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—*Feb.* 4, 1807.—

District of Massachusetts, *to wit* :

(L.S.) BE it remembered, that on the twenty fourth day of November, in the thirty first year of the Independence of the United States of America, ABIJAH BIGELOW, of the said district, has deposited in this office the Title of a Book, the right whereof he claims as Author, in the words following, *to wit :* "THE VOTER'S GUIDE : or the power, duty and privileges of the Constitutional Voters in the Commonwealth of Massachusetts, to which are added, original remarks with various extracts from Historians, and the writings and public speeches of eminent political characters in this and other Countries, tending to explain the causes of the rise and fall of Republican Governments. BY ABIJAH BIGELOW, Attorney at Law.

It is in the regions of ignorance that Tyranny reigns.
Life of Franklin.

In Conformity to the Act of the Congress of the United States, intitled, "An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the Times therein mentioned;" and also to an Act intitled, "An Act supplementary to an Act, intitled, An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies during the times therein mentioned; and extending the Benefits thereof to the Arts of Designing, Engraving and Etching Historical, and other Prints."

WILLIAM S. SHAW { *Clerk of the District of Massachusetts.*

PREFACE.

Whenever a new work is presented to the Public, it is customary for the author to explain his object, and assign his motives for the publication. The former of these, in the present instance, will be found in the Introduction to the work. As to the latter, the author can only observe, that as one of the citizens of the Commonwealth, he is interested, in common with his fellow citizens, in the preservation of our present free and happy form of government; and entertaining a humble hope, that the following work, by reminding voters of their power and duty, may have a tendency to preserve our Elections from corruption, without which, though we may have the name, we cannot long be a free people, he has been induced to submit it to public perusal.

That it has many imperfections he has no doubt. That some of his opinions upon the subject of the qualifications of voters may be erroneous, is not improbable. He feels, how-

ever, conscious, that no part of the work contains any thing of a licentious or demoralizing nature, and that whatever errors or imperfections it contains, ought to be ascribed to the head, and not to the heart. He will even venture to go farther, and say, that the latter part of the work contains sentiments and advice, which, if adhered to, will have a happy tendency to improve the morals of the people, and promote, increase and preserve the prosperity of the Commonwealth. Should it have this effect, no apology is necessary for its publication, should it, however, unfortunately fail of being useful, the author, with many others, must draw largely upon the Public Candor, and seek for an apology in the goodness of his intentions.

A. BIGELOW.

Leominster February 1807.

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THE

VOTERS' GUIDE.

INTRODUCTION.

THE end and design of government, as briefly and plainly expressed in the preamble to the Constitution of the United States, is, "To establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and our posterity."

In the preamble to the Constitution of this Commonwealth, we find similar sentiments upon the subject of government. It is there said "The end of the institution, maintenance and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals, who compose it, with the power of enjoying, in safety and tranquillity, their natural rights, and the blessings of life."

These are objects, to the attainment of which, by any people, or nation, some form of government is absolutely necessary. What form of government is best calculated to se-

cure these objects, or whether the Constitution of the United States, or of this Commonwealth are not as perfect in this respect, as the nature of things will admit, is not the object of the present undertaking. It will not, however, in this place, be improper to observe, that they were both formed under circumstances peculiarly favourable to the security of those rights and blessings for which they were intended, and that, in the opinion of most writers upon the subject, few, if any forms of government ever have, or now do exist, which unite so many advantages for securing the objects for which they were framed, as the Constitutions alluded to, and those of the other States which compose the federal government.

But no Constitution, or form of government, however wise, however just and equal its provisions, or however guarded against the plots and intrigues of the ambitious, the discontented and factious, can, for any considerable length of time, secure the blessings of life, liberty and property, without a firm adherence, in the great body of the people, to the principles upon which it is instituted, and an administration, which carries it into operation, according to its true intent and meaning.

Although we do not fully agree in opinion with Mr. POPE, when he says,

"For forms of government, let fools conteſt,
Whatever's beſt adminiſter'd is beſt,"

yet we firmly believe there is more truth and justice in the remark, than many speculative and theoretical writers are willing to admit.

We find recorded in history, many instances of nations, living under a monarchical government, where the sovereign possessed almost unlimited power, enjoying a great degree of happiness and prosperity, and we find many instances also, of free governments, where, under a bad administration, the people have been opprest and miserable.

It may indeed be laid down as a maxim, that the happiness of a people depends in a great measure upon the proper administration of the government under which they live. In all governments, therefore, it is of the highest importance, that those, who are entrusted with the management of public affairs, should be men of Wisdom and Virtue. If it be a despotic government, "*in which a single person, without law and without rule, directs every thing by his own will and caprice*,"* if the disposition of the despot be tyrannical, his subjects must be wretchedly miserable. If the government be republican, or that, *in which the body or only a part of the people is possessed of the supreme power*,†" it is necessary that the body, or that part of the people which possesses the supreme power should be wise and virtuous, or the nation must not expect

*Monteſquieu. †Ibid.

to be happy, or long to preserve their form of government.

Let us apply these remarks to the government of this Commonwealth. The Constitution declares, that, "The people of this Commonwealth have the sole and exclusive right of governing themselves as a free, sovereign and independent State," it declares also, that, "all power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and at all times accountable to them." Hence it follows that the Supreme power of this State resides in the people, exercised, it is true, by their representatives chosen by themselves, and accountable to them for their conduct. It will therefore be found necessary, not only that the great body of the people, but that their representatives or agents, to whom the supreme power of the State is entrusted for a limited time, should be wise, virtuous and enlightened. For, if it should at any time happen, that the representatives are either ignorant or corrupt, they will, by their example and influence, either corrupt the people, or else, by their own want of knowledge, keep them in ignorance; and when, on the other hand, the people are either ignorant or corrupt, they

will be sure to have either ignorant or corrupt representatives. In either of which cases, should they ever unfortunately happen, we may calculate, with almost moral certainty, upon the change, or total destruction of our Government. Our Republican institutions would be swept away by the inundation of anarchy, or buried in the calm of despotism.

WISDOM and VIRTUE are indispensibly necessary in the support of a Representative Government. Without the former, the people will suffer their liberties to expire peaceably, without the latter, they will themselves give the violent and fatal blows, which will terminate their existence.

There is an essential difference, it is true, between a government, like ours, which is Republican or rather Representative, and a pure Democracy. In the latter, every thing is transacted in a general assembly of the people, laws are established, officers civil and military appointed and enterprizes undertaken by a majority of votes. In such a government, Wisdom and Virtue may, at first view, appear more necessary, than in one which is Representative. But the difference is not essential. In a Democracy, when the great body of the people are assembled for the purpose of legislation, they are influenced and guided by a few, so in a Representative government, the people generally choose those men to legis-

late for them, by whom, in a democracy, they would be influenced and directed. The people in either case should be enlightened, they should be able to form correct opinions of the leading characters, to distinguish their friends from their enemies, and in a Representative Republic to understand fully the nature and extent of their rights, duties and privileges.

"It is as important," says Montesquieu, "to regulate in a Republic, in what manner, by whom, to whom, and concerning what suffrages are to be given, as it is in a monarchy to know who is the prince, and after what manner he ought to govern."

If it is of importance that these things should be regulated in a Republic, it surely is not of less importance that the people should know how they are regulated. In the Constitution and Laws of this Commonwealth, the qualifications necessary to constitute a citizen a voter, the manner of his voting, and the purposes for which his suffrages are to be given, are defined and regulated.

To diffuse this knowledge more generally among all classes of people in the Commonwealth, to inculcate upon the qualified voters the importance of an attention to, and a right exercise of the privilege of Elections, and to warn them, by example and precept, of the dangers which a careless neglect of their rights and duties in this respect will

have upon their liberties, is the object of the present undertaking.

The design of the work is important, the manner of its execution, it is humbly hoped, will not disappoint the expectation of the Reader.

PART I.

OF THE QUALIFICATIONS NECESSARY TO CONSTITUTE A CITIZEN A VOTER IN THE CHOICE OF UNITED STATES, STATE, COUNTY AND TOWN OFFICERS.

CHAP. I.

ALL the Citizens of a Republic cannot be entitled to vote, the laws which fix and determine who may vote, and who not, should be plain, certain and positive.

"ALL elections ought to be free; and all the inhabitants of this Commonwealth, having such qualifications, as they shall establish by their Frame of Government, have an equal right to elect officers, and to be elected for public employments."*

Every judicious person will readily perceive, what is implied in the above article of the Bill of Rights, that all the citizens of a State or Commonwealth, are not suitably qualified to vote in public affairs. But where to draw the line between those who may, and those who may not vote, is a subject of importance, and one, which, from the nature of

* Bill of Rights. Art. 9.

things, must, in all cases, be attended with difficulty. "It is a great privilege to choose such persons as are to bind a man's life and property by the laws they make."‡ Legislators should therefore be careful how they exclude, from voting, persons whose lives and property may be affected, and who can be reasonably supposed qualified for the exercise of so great a privilege. They should be careful also, that the rules, or laws which establish the qualifications of voters, should be plain, certain and positive, leaving, if posble, no room for doubt or uncertainty.

The want of wise provisions, in these respects, has been considered by historians, and eminent political writers, as one cause of the rúin of ancient republics.

That the framers of our Constitution, having the benefit of experience, and having read, in history, the inconveniences of regulations adopted by other free governments, were aware on the one hand, of the great privilege it is for a people to choose such men as are to bind their lives and property by the laws they make, will appear from the liberality discovered in the qualifications required of a citizen to entitle him to vote; and, on the other hand, that they were aware of the danger of a general admission of all the citizens to the privilege of voting, and of the necessity of

‡ Lord Holt.

adopting plain, certain and positive rules for the exclusion of the unqualified, will appear, from an examination of those parts of the Constitution, which establish the qualifications of voters.

The three principal qualifications required by our Constitution are, AGE, PROPERTY and RESIDENCE.

These qualifications are all evidently necessary, and at the same time admit of less doubt and uncertainty than any others which could be mentioned. Were they, for instance, to be fixed upon the qualities of the mind, as that a man should possess a certain degree of knowledge, wisdom and virtue, though they might be necessary to enable him to vote understandingly, yet they are qualifications, which, from their very nature, could not be ascertained with precision, but would create uneasiness, and render our elections a scene of confusion.

We have suggested the above ideas, merely to shew that the framers of our Constitution understood the nature and importance of their subject, and that, if any difficulty arises upon the construction of it, as to the qualifications of voters, it ought not to be attributed to their weakness as legislators, but rather to the difficulties attending the thing itself, and the imperfections incident to all human establishments. For no human legislator, however wise or circumspect, can foresee all the cases,

which, in the progress of society, will always arise ; it is impossible, therefore, he should establish any general rules, which will provide for cases not contemplated at the time of making them. In addition to this, the zeal of party spirit, warped by predjudice, influenced by passion, and contending for interest or triumph, rather than the public good, will endeavor, right or wrong, so to construe the Constitution, as will best promote its own private schemes of ambition and interest.

Having thus briefly attempted to shew that our Constitution has wisely regulated *by whom suffrages are to be given*, we shall proceed to enquire what those regulations are. The best institutions, unless understood and practised, are of no use.

CHAP. II.

Of the qualifications necessary to constitute a citizen a voter in the choice of United States Officers.

Sect. 1. REPRESENTATIVES to CONGRESS.

IN the first Article and second Section of the Constitution of the United States we find that, " The House of Representatives shall be composed of Members

chosen every second year by the people of the several States; and the Electors in each State shall have the qualifications requisite for Electors of the most numerous branch of the State Legislature." The most numerous branch of the Legislature of this Commonwealth is the House of Representatives. The qualifications, therefore, of an Elector of Representatives to Congress, and to the General Court of this Commonwealth, are the same. To prevent repetition, the reader is refered to the 2 Section of the next Chapter.

SEC. 2. *Remarks on the qualifications of Voters for Representatives to Congress.*

ONE of the qualifications of an Elector of a Representative or Representatives, for any particular town, to the General Court of this Commonwealth, is, that such elector shall have been resident in such town for the space of one year next preceding such election. A question may arise, whether, if a man possesses the other two qualifications of a voter for a Representative to the General Court, viz: Age and Property, he may not be entitled to vote for Representatives to Congress, although he has not been resident in any particular town, but any where in the State, for one year next preceding such election.

We think he cannot.

It may indeed be said, that Representatives to Congress are not, like Representatives to the general Court, the Representatives of a particular town, but of the Commonwealth, and therefore, if a man is qualified as to Age and Property, and has resided any where in the Commonwealth for the space of one year preceding the election, though not all the time in any one town, it can make no difference as to his right of voting for Representatives to Congress, who are not the immediate Representatives of any particular town, but of the whole Commonwealth.

We confess we can see no reason, but the express declaration of the Constitution of the United States, why it should not be so. But that explicitly says, "Electors of Representatives to Congress shall have the qualifications requisite for Electors of the most numerous branch of the State Legislature." In this State, Residence, in the choice of Representatives to the General Court, is a qualification equally as necessary as Age or Property. Does it not then clearly follow, that a man does not possess the qualifications of a voter for a Representative to the General Court, and of course of Representatives to Congress, unless he has resided one year previous to such election, in some particular town.

In addition to this, in an act, passed in March 1802, for "Dividing the Commonwealth into Districts, for the choice of Representatives in the Congress of the United States, and prescribing the mode of election," we find the following clause. "The Selectmen of the several Towns and Districts within this Commonwealth, shall, in manner as the law directs for calling town meetings, cause the inhabitants of their respective Towns and Districts, duly qualified to vote for Representatives in the General Court of this Commonwealth, to assemble on the first Monday of November, biennially, beginning in November next, to give in their votes for their respective Representatives to the Selectmen who shall preside at said meetings." By the above clause, it appears, that the inhabitants of each town qualified to vote for a Representative to the General Court, are to give in their votes to the Selectmen of their own town, for Representatives to Congress. Can, then, the Selectmen of a Town receive votes for a Representative to Congress, of a person, who is not qualified to vote in the same town, for a Representative of that town, to the General Court? The Selectmen of every town must judge for themselves, it is important, however, that they should judge right, and that the practice should be uniform. If the question is a doubtful one. it is one which will frequently arise. It is for this reason we have submitted the above re-

marks, which we believe to be correct, if they are not, we shall be thankful to any person who will explain the Constitution of the United States differently.

Sect. 3. ELECTORS OF PRESIDENT AND VICE-PRESIDENT,

"The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows: Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector."

[*U. S. Constitution, Art.* 11. *Sec.* 1.

The qualifications of voters for Electors of President and Vice-President depends upon the Legislature of the Commonwealth. As there is no law now in force in the State, determining what those qualifications shall be, it will be the duty of the Legislature, previous to the next Presidential Election, to make a law upon the subject. The

above are the only United States officers chosen by the people of this State.

CHAP. III.

Of the qualifications necessary to constitute a citizen a voter in the choice of State Officers.

Sect. 1. SENATORS AND COUNSELLORS.

"EVERY male inhabitant of twenty one years old and upwards, having a freehold estate within the Commonwealth, of the annual income of *three pounds*, or any estate of the value of *sixty pounds*, shall have a right to give in his vote for the Senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant," in this Constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office or place within this State, in that town, district or plantation, where he dwelleth, or hath his home.

Constitution, Chap. 1. *Sect.* 11. *Art.* 11.

Sect. 2. REPRESENTATIVES TO THE GENERAL COURT.

"Every male person, being twenty one years of age, and resident in any particular town in this Commonwealth for the space of one year next preceding; having a freehold estate within the same town of the annual income of *three pounds*, or any estate of the value of *sixty pounds*, shall have a right to vote in the choice of a Representative, or Representatives for the said town.

Const. Chap. 1. *Sect.* 3. *Art.* 4.

Sect. 3. GOVERNOR AND LIEUTENANT-GOVERNOR.

"Those persons who shall be qualified to vote for Senators and Representatives within the several towns of this Commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of *April* annually, give in their votes for a Governor, to the Selectmen, who shall preside at such meetings." *Const. Chap.* 11. *Sect.* 1. *Art.* 3.

The qualifications of the electors, (of Lieutenant-Governor,) shall be the same as required in the election of a Governor.

Const. Chap. 2. *Sect.* 2. *Art.* 1.

Sect. 4. REMARKS ON THE QUALIFICATIONS of ELECTORS of STATE OFFICERS.

1. One of the qualifications of a voter for State Officers is a freehold estate of the annual income of *three pounds*, or any estate of the value of *sixty pounds*. From the frequent practice, at least, in many towns, of admitting persons to vote for State Officers, whose estate consists of a lease of real estate for one or two years only, it is apprehended that the meaning of the words, *freehold estate*, are either misunderstood, or not attended to by Assessors and Selectmen in making out a list of voters.

A Freehold estate is an estate in fee or for life. It is not indeed necessary to constitute a freehold, that a man should possess an estate during the term of his own life, if he has an estate during the life of another person, or is in possession, in right of his wife, of an estate during her life, it will be a freehold estate. But no estate, less than a life estate, will amount to a freehold. A lease, therefore, to a man of real estate for any number of years, and of ever so great value, does not qualify him to vote for state officers. He must have other property to the value of *sixty pounds*, or he will not be a voter. His paying taxes for the place will make no difference. Perhaps it will

be said the above caution is unnecessary, that no men take leases of land of the annual income of *three pounds*, who have not other property to the value of *sixty pounds*. This may be generally true, but there are many instances to the contrary. Assessors, therefore, when they tax a man for estate which he holds by a lease for years only, ought to be careful, when they make out a list of voters, that they do not, in such cases, make their tax bills their guide. They should remember, that it is not the amount of taxes a man pays, but the amount of the property he possesses, which qualifies him to vote for State Officers.

2. "Those persons who shall be qualified to vote for Senators and Representatives, within the several towns in this Commonwealth, shall give in their votes for Governor" &c.

The Reader will perceive a difference in the qualifications of voters for Senators and Representatives. To vote for the former it is sufficient that a man has a freehold in the Commonwealth, and is an inhabitant of the town where he votes; but to vote for the latter, he must have resided in the town one year previous to the election, and his freehold estate must be in the town where he votes.

This difference in the qualifications of voters for Senators and Representatives, has created doubts, in the minds of many, as to

the proper construction of that part of the Constitution which relates to the qualifications of voters for Governor. The doubt is, whether a man, to vote for Governor, must be qualified to vote in the choice both of Senators and Representatives, or only in the choice, either of Senators, or of Representatives.

The words of the Constitution, are "Those persons who shall be qualified to vote for Senators *and* Representatives," shall vote for Governor &c. The difficulty arises from the word *and* between Senators and Representatives. If the word *and*, in this place, may and ought to mean the same as if it were *or*, then a man qualified to vote either for a Senator or a Representative may vote for Governor. That it does mean the same as *or* we believe for the following reasons.

The word *and* is sometimes used instead of *or*, and if the spirit of the Constitution requires that it should be so undersood in this place, it will be agreeable to the rules of construction so to consider it.

It appears by the Constitution that the amount of the property required to vote for Senators and Representatives is the same; the difference consists entirely in the locality of it. The reason of the difference is obvious. It was considered that Representatives were in some respects the officers or agents of the

particular towns they represented, and therefore, that a man ought not to vote for a Representative in a town where he had no property. Again, to vote for a Representative a man must have resided in the town one year previous to the election. Why? Because, no doubt, it was considered that a years residence, at least, would be necessary, to enable him to become acquainted with the local interests of the town, and the characters of its inhabitants.

The above reasons do not apply in the choice of Senators, and, therefore, we find that a freehold any where in the State is suffered to entitle a man to give in his vote for Senators to the Selectmen of that town, where he dwelleth or hath his home. But the reasons of confining the freehold to the town and requiring a years residence to vote for a Representative, apply with as much force to Senators as to Governor. For surely a man's having a freehold in the Commonwealth may as well entitle him to vote for a Governor of the Commonwealth, as for the Senators of a particular District. Indeed, if there is a difference, we should suppose a freehold in the Commonwealth would be a qualification in voting for Governor, but in voting for Senators that a freehold in the District would be required. But if a different construction is adopted, it will be found, that no man can vote for Governor, unless he has

resided in the town where he votes for the space of one year, & his property, if realestate, must be in the same town. As no reason can be assigned why this should be required in voting for Governor, more than in voting for Senators, as the word *and* is sometimes used instead of *or*, and as the spirit of the Constitution requires that it should, in this place, be understood in this sense, we conclude, that those persons who are qualified to vote for Senators, and those persons who are qualified to vote for Representatives, are qualified to vote for Governor.

3. It is contended by some, that the privilege of voting for Governor, Lieutenant Governor, Senators and Counsellors is not a local privilege, or in other words, is not confined to the town of which the voter is an inhabitant; but that he may vote for Governor and Lieutenant Governor in any town in the Commonwealth where he may chance to be on the day of election, and for Senators and Counsellors in any town in the District of which he is an inhabitant. We have, indeed, understood that the Selectmen of some towns have entertained the above opinion, and even gone so far as to receive votes of the inhabitants of other towns for the above officers. The practice, however, is not only unauthorised by the Constitution, but attended with many dangerous and mischievous consequences. A little attention to the

subject will at once shew the absurdity of it.

The Constitution, after pointing out the qualifications of voters for Senators, and declaring the meaning of the word 'inhabitant,' proceeds in the next paragraph to point out the manner of election as follows. "The Selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for Senators," &c. The power of Selectmen, in this case, is derived from the Constitution, they cannot lawfully do any thing it does not authorise. Does the above clause authorise the Selectmen of any town, to receive votes of the inhabitants of another? To remove all doubts upon the subject, let us proceed to the next paragraph. "The inhabitants of plantations unincorporated, qualified as this Constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for Counsellors and Senators in the plantation, where they reside, as town-inhabitants have in their respective towns,"&c. Here we find that the right of voting is confined, in one case, to the plantation, and in the other, to the town, where the voter is an inhabitant.

The same reasons will apply in the choice of Governor and Lt. Gov. because no per-

son can vote for these, who is not entitled to vote for Senators or Representatives, and no one will contend that the right of voting for the latter officer is not confined to the town to which the voter belongs.

From the above remarks, if true, may be drawn the following conclusions.

1. A voter for Senators must be an inhabitant of the town where he votes, and have a frehold estate in the *Commonwealth* of the annual income of *three pounds*, or any estate of the value of *sixty pounds*.

2. A voter for Representatives, must have resided in the town where he votes for the space of one year previous to his voting, and have a freehold estate in the *same town* of the annual income of *three pounds*, or any estate of the value of *sixty pounds*.

3. A voter for Governor and Lieutenant-Governor must have the qualifications, either of a voter for Senators, or, of a voter for Representatives.

4. No person can vote for either of the aforesaid officers, except in the town of which he is an inhabitant.

CHAP. IV.

Of the qualifications necessary to constitute a citizen a voter in the choice of County Officers.

Sect. 1 & 2. REGISTER OF DEEDS AND COUNTY TREASURER.

The only County Officers chosen by the people are the Register of Deeds and the County Treasurer. The former is chosen once in five years, the latter annually. The qualifications of voters in the choice of both these officers are the same as those required of voters in the choice of Representatives to the General Court. The reader is, therefore, refered to the 2d Section of the last Chapter, where he will find what those qualifications are.

CHAP. V.

Of the qualifications necessary to constitute a citizen a voter in the choice of Town Officers.

SECT. 1. The freeholders and other inhabitants of each town in this Commonwealth, who shall pay to one single tax, besides the poll or polls, a sum equal to two thirds of a single poll-tax, are entitled to vote for all Town Officers, and in all other town affairs.*

*Act passed March 23, 1806.

SECT. 2. *Remarks on the qualifications of voters for town officers and in town affairs.*

The qualifications of voters for town officers depend entirely, as it respects property, upon the taxes they pay. These being apportioned upon the inhabitants of the respective towns, by their respective Assessors, it is incumbent on them to be very attentive to the faithful and impartial performance of their duty. Many cases will occur, where the taxable property of persons will be such, that a small error, by the Assessors, in the estimation of its value, will, if the estimation be a little too low, debar some from the privilege of voting, who ought not to be debared, and, if a little too high, entitle others to the privilege, who ought to be excluded. Whenever such cases occur, it is hoped they will always be governed by their oath, which is, *to proceed equally and impartially, according to their best skill and judgment.*

As the privilege of voting for town officers depends upon the amount of taxable property, a man who is anxious to be a voter, and fearful that his property will not make him such, can give in more than he really possesses. Instances of this kind have, and probably will sometimes happen. Assessors, however, may, if they feel disposed to do their duty, easily prevent a fraud of this nature.

The law regulating their general power and duty, directs them to give notice to the inhabitants of their respective towns, to bring in lists of their polls, and all their taxable property, and authorises them, to require the person presenting such list, to make solemn oath that the same is true. A list, which contains more property than a man possesses, if such property is put on for the above purpose, will be as false, as one which contains less.

PART II.

OF THE QUALIFICATIONS NECESSARY TO RENDER CITIZENS ELIGIBLE TO UNITED STATES, STATE, COUNTY AND TOWN OFFICES, WITH THE TIME AND MANNER OF THEIR ELECTION.

CHAP. I.

Of the qualifications of United States Officers, with the time and manner of their election.

Sect. 1. REPRESENTATIVES TO CONGRESS.

"No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen."

"Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to serve for a term of years, and excluding In-

dians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such a manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative."

U. S. Constitution, Art. 1.

To the above Article the following addition and amendment has been made, and is now a part of the Constitution.

"After the first enumeration, required by the first article of the Constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred; after which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred; after which, the proportion shall be so regulated by Congress, that there shall not be less than two hundred representatives, nor more than one representative for every fifty thousand persons." *Amend. U. S. Const.*

Agreeably to the foregoing provisions of the Constitution, an act was passed by Congress, in January 1802, *for the apportionment*

of Representatives among the several States. According to this apportionment, the several States are entitled to the number following, viz.

New Hampshire	5.	Virginia	22.
Massachusetts	17.	North Carolina	12.
Vermont	4.	South Carolina	8.
Rhode Island	2.	Georgia	4.
Connecticut	7.	Kentucky	6.
New York	17.	Tennessee	3.
New Jersey	6.	Pennsylvania	18.
Delaware	1.	Maryland	9.

After the next enumeration of the people of the United States, there will be another apportionment of Representatives, which will probably increase the number.

"The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof: But the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." *Conſt. U. S. Art. 1. Sect. 4.*

In March 1802, the Legislature of this Commonwealth passed a law for regulating the election of Representatives to Congress. As this law contains all the further information necessary upon this subject, we shall conclude this Section by inserting it entire.

An Act

Dividing the Commonwealth into seventeen districts, for the choice of Representatives in the Congress of the United States, and prescribing the mode of election.

SECT. 1. BE *it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That this commonwealth be, and it hereby is divided into seventeen Districts, as in this act defined and described, for the purpose of Choosing Representatives to represent this Commonwealth in the Congress of the *United States*, after the present Congress; in each of which Districts one Representative, being an inhabitant of the District for which he shall be elected, shall be chosen in the manner herein after prescribed.

SECT. 2. *Be it further enacted,* That the said seventeen Districts shall be formed and limited in manner following, *viz.*

The Towns in the County of *Suffolk*, together with the town of *Charlestown*, *Medford* and *Malden*, in the County of *Middlesex*, shall constitute one District, to be called SUFFOLK DISTRICT.

The Towns of *Lynn*, *Lynnfield*, *Salem*,

Marblehead, *Danvers*, *Beverly*, *Manchester*, *Windham*, and *Gloucester*, in the County of *Essex*, shall constitute one District, to be called ESSEX SOUTH DISTRICT.

The Towns and districts in the County of *Essex* not included in *Essex South District*, shall, together with the town of *Reading* in the County of *Middlesex*, constitute one District, to be called ESSEX NORTH DISTRICT.

The Towns and Districts in the County of *Middlesex*, excepting the town of *Reading*, and excepting also those towns which are in this act included in *Suffolk* and *Norfolk* Districts, respectively, shall constitute one District, to be called MIDDLESEX DISTRICT.

The Towns of *Ware*. *Belchertown*, *Granby*, *South Hadley*, *Hadley*. *Northampton*, *Westhampton*, *Norwich*, *Worthington* and *Middlefield* in the County of *Hampshire*, together with the Towns and Districts in the same County lying southerly of the above-named towns, shall constitute one District, to be called HAMPSHIRE SOUTH DISTRICT.

The Towns and Districts in the County of *Hampshire*, not included in the last named District, shall constitute one District, to be called HAMPSHIRE NORTH DISTRICT.

The Towns and Districts in the County of *Plymouth*, shall constitute one District, to be called PLYMOUTH DISTRICT.

The Towns and Districts in the Counties of *Barnstable*, *Dukes County* and *Nantucket*, together with the town of *New Bedford*, in the County of *Bristol*, shall constitute one District, to be called BARNSTABLE DISTRICT.

The Towns and Districts in the County of *Bristol*, excepting the town of *New Bedford*, shall constitute one District to be called BRISTOL DISTRICT.

The Towns of *New-Braintree*, *Spencer*, *Leicester*, *Worcester*, *Shrewsbury*, *Northborough* and *Southborough*, in the County of *Worcester*, together with the towns and Districts in the same County lying southerly of the above named Towns, shall constitute one District, to be called WORCESTER SOUTH DISTRICT.

The Towns and Districts in the County of *Worcester*, not included in the last named District, shall constitute one District, to be called WORCESTER NORTH DISTRICT.

The Towns Districts and Plantations in the County of *Berkshire*, shall constitute one District, to be called BERKSHIRE DISTRICT.

The Towns and Districts in the County of *Norfolk*, together with the Towns of *Newton*, *Natick*, *Sherburn*, *Hopkinton* and *Hollis on* in the County of *Middlesex*, shall constitute one District, to be called NORFOLK DISTRICT.

The Towns, Districts and Plantations in the County of *York*, shall constitute one District, to be called YORK DISTRICT.

The Towns, Districts, and Plantations in the County of *Cumberland*, shall constitute one District, to be called CUMBERLAND DISTRICT.

The Towns, Districts, and Plantations in the County of *Lincoln*, together with the towns of *Isleborough*, *Vinalhaven*, *Prospect*, *Northport*, *Ducktrap*, *Belfast*, and *Deer Isle*, in the County of *Hancock*, shall constitute one District to be called LINCOLN DISTRICT.

The Towns, Districts and Plantations in the Counties of *Kennebeck*, *Hancock* and *Washington*, excepting those Towns in the County of *Hancock*, included in *Lincoln District*, shall constitute one District, to be called KENNEBECK DISTRICT.

SECT. 3. *Be it further enacted*, That the Selectmen of the several Towns and Districts within this Commonwealth, shall, in manner as the law directs for calling town-meetings, cause the inhabitants of their respective Towns and Districts, duly qualified to vote for Representatives in the General Court of this Commonwealth, to assemble on the first Monday of November, *biennially*, beginning in November next, to give in their votes for their Representative, to the Selectmen who

shall preside at said meetings; and the Selectmen, or the major part of them, shall, in open town-meeting, sort and count the votes, and shall form a list of the names of the persons voted for, with the number of votes for each person written in *words* at length against his name, and the Town Clerk shall make a record thereof; and the Selectmen shall, in such meeting, make public declaration of the persons voted for, and of the number of votes they respectively have, and shall, in open town-meeting, seal up the said list, certified by the Selectmen, and express upon the outside of the said list the District in which the votes were given; and shall transmit the same within fourteen days next after such meeting, to the Secretary of the Commonwealth, or to the Sheriff of the County in which such Town or District lies, who shall transmit the same to the Secretary of the Commonwealth within forty days next after the time of holding such meeting; and the Secretary shall lay the same before the Governor and Council, and in case of an election for any District by a majority of the votes returned from such District, the Governor shall forthwith transmit to the person so chosen, a certificate of such choice, signed by the Governor, and countersigned by the Secretary. And the Selectmen of such Towns and Districts as lie within any County in which there may be no Sheriff, shall return

such lists to the Secretary's Office within the same term of time as Sheriffs are required to do.

SECT. 4. *Be it further enacted*, That in case no person shall be chosen by a majority of all the votes returned from any District, the Governor shall cause Precepts to issue to the Selectmen of the several Towns and Districts within such District, directing and requiring such Selectmen, to cause the inhabitants of their respective Towns and Districts, qualified as aforesaid, to assemble as aforesaid, on a day in such precept to be appointed, to give in their votes for a Representative in Congress as aforesaid; which precept shall be accompanied with a list of persons voted for, in such District, shewing the number of votes for each person according to the first return; and the same proceedings shall be had thereon, in all respects, as before directed in this act; and the Selectmen shall make return to the Secretary of the Commonwealth, or to the sheriff, in manner as aforesaid, within fourteen days next after the time of holding such meetings; and the Sheriff shall make return thereof into the Secretary's Office, on or before such day as the Governor shall appoint in such precept; and the Selectmen of such Towns and Districts as lie within any County in which there may be no Sheriff, shall return such lists to the Secreta-

ry's Office, within the same term of time, Sheriffs are required to do. And the Secretary shall lay the lists, so returned to his office, before the Governor and Council, and the Governor shall cause the person or persons who shall be chosen as aforesaid, to be served with a Certificate thereof, as aforesaid; and like proceedings shall be again had, in case any District shall fail of completing the choice of its Representative; and the Governor shall issue his precept accordingly, to the Selectmen of those towns and districts of such Districts, wherein the choice of Representatives shall not have been made; and like proceedings shall be had as often as occasion may require.

SECT. 5. *Be it further enacted*, That whenever any vacancies shall happen in the representation of this Commonwealth in the Congress of the United States, the Governor shall cause Precepts to issue to the Selectmen of the several Towns and Districts within any District in which such vacancy may happen, directing and requiring them to cause the inhabitants of their respective Towns and Districts, to assemble on a day in such precepts to be appointed, to give in their votes for a Representative to supply such vacancy; and like proceedings shall, from time to time in all respects be had as are herein before provided.

SECT. 6. *Be it further enacted*, That it shall be the duty of the Sheriffs of the several Counties of the Commonwealth, on receiving copies of this act, or any precept from the Governor for the purpose herein mentioned, to transmit the same seasonably to the Selectmen of the several Towns and Districts, and to the Assessors of the several Districts and Plantations where there may be no Selectmen, within their respective Counties, to whom such Copies or Precepts may be respectively directed. And the several Sheriffs shall, for the said service, be entitled to receive out of the Treasury of this Commonwealth fifty cents for each of the Copies and of the Precepts so by them distributed to the Selectmen of the Towns and Districts, and to the Assessors of the Districts and Plantations in their Counties, where there may be no Selectmen, *Provided however*, That no Sheriff, who shall neglect seasonably to transmit all and every of the Copies and Precepts by him received, in manner aforesaid, shall be entitled to any compensation for distributing any of such Copies or Precepts.—And for returning the votes as aforesaid each Sheriff shall be entitled to receive twenty cents per mile, computing from the place of abode of each Sheriff to the Secretary's Office. And in either case, the Sheriffs shall present their accounts to the Committee on Accounts for examination and allowance.

SECT. 7. *Be it further enacted*, That any Sheriff, who shall neglect to perform the duties which, by this act, he is directed to perform, shall for each neglect, forfeit and pay the sum of two thousand dollars, to be recovered by an Action of Debt in the name and to the use of the Commonwealth.—And for any such neglect of any Sheriff it shall be the duty of the Attorney General and of the Solicitor General to prosecute within one year thereafter.—And if any Selectmen shall neglect to perform any of the duties which by this act they are required to perform, each Selectman, so neglecting, shall forfeit and pay a sum not exceeding two hundred dollars, nor less than thirty dollars, to be recovered by an Action of Debt or on the Case, one moiety thereof to the prosecutor and the other moiety thereof to the use of the Commonwealth.

SECT. 8. *Be it further enacted*, That the Assessors of those Districts and Plantations where there may be no Selectmen, shall have the same power and perform the same duties, for the purposes of this act, as are herein given to, or required of Selectmen, and shall incur like penalties in case of neglect.

SECT. 9. *Be it further enacted*, That this act shall be construed to extend to those plantations only which shall choose Assessors to assess the public taxes which shall be set

to such Plantations in the tax-act next preceding the several elections.

SECT. 10. *And be it further enacted*, That this act, until a new apportionment of Representatives among the several States shall be made, and for the purpose of supplying any vacancy or vacancies which may happen in the representation of this Commonwealth in the Congress of the United States which shall make such apportionment, shall continue and be in full force.

The following Act to alter and amend the fourth and fifth Sections of the aforesaid Act, passed June 18, 1802, forms a part of the law regulating the election of Representatives to Congress, and is, therefore, inserted.

SECT. 1. *BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That if, after a second trial, no person shall be chosen by a majority of all the votes returned from any district, in the manner prescribed by the act passed on the tenth day of March, one thousand eight hundred and two, entitled, "An Act dividing the commonwealth into seventeen Districts, for the choice of Re-

presentatives in the Congress of the United States, and prescribing the mode of election," the Governor shall cause precepts to issue to the selectmen of the several towns and districts within such district, directing and requiring such selectmen to cause the inhabitants of their respective towns and districts, legally qualified, to assemble on a day in such precept to be appointed, to give in their votes for one of the two persons having the highest number of votes upon the second return, to serve as the Representative of the said district in the Congress of the United States; and if, upon the second return, three or more candidates shall have an equal number of votes, and all stand highest on the list, the votes, at the third trial, shall be given in for one of the said highest candidates;—And if, upon the second return, two or more persons standing on the list next to the highest candidate, shall have an equal number of votes, then the votes at the third trial shall be given either for the said highest candidate, or for one of the said persons standing next highest on the list.—And the precepts issued as aforesaid shall be accompanied with the names of the persons to be voted for at the third trial and the number of votes given for each of them at the second return. And the selectmen shall, in open town meeting, sort and count the votes given

in for each of said persons and shall make public declaration of the number of votes given in for them respectively; and the town clerk shall record the same;—And the selectmen shall make return thereof to the secretary of the commonwealth, or to the sheriff, in manner as prescribed for the first return, fourteen days next after the time of holding such meetings; and the sheriff, shall make return thereof into the secretary's office, on or before such day as the Governor shall appoint in such precept, and the selectmen of such towns and districts as lie within any county in which there may be no sheriff, shall return such lists to the secretary's office within the same term of time as sheriffs are required to do. And the secretary shall lay the lists, so returned to his office, before the Governor and Council, and the person who shall then have the greatest number of votes so returned for the persons to be voted for at such third trial, shall be duly elected to represent the said district in Congress; and the Governor shall cause the person so elected to be served with a certificate thereof, signed by the Governor and countersigned by the secretary. And the same proceedings as are herein above directed, shall be had in case no choice by a majority of all the votes returned, shall be made at the first trial to supply vacancies in the representaton of

this commonwealth in Congress, according to the directions in the fifth section of the said act to which this is an amendment.

SECT. 2. *And be it further enacted,* That if either of the persons to be voted for upon the third trial should die, or decline being elected, or be otherwise disqualified, then the Governor shall cause precepts to issue as directed in the third section of the act to which this is an amendment, in cases of a new election, and if no person shall be chosen by a majority of all the votes returned, the same proceedings shall be had as are herein before directed.

SECT. 3. *And be it further enacted,* That if upon the returns of the third trial as aforesaid, the persons returned, or the two highest of them, shall have an equal number of votes, the Governor shall again cause like precepts to issue, and the proceedings herein before directed shall be repeated, untill one of the said persons to be voted for at the third trial, shall have a majority of the votes so returned.

SECT. 4. *And be it further enacted,* That so much of the fourth and fifth sections of the act to which this is an amendment, as is herein differently provided for, shall be, and is hereby repealed.

Sect. 2. ELECTORS OF PRESIDENT AND VICE-PRESIDENT.

No particular qualification is required to render a man eligible to the office of an Elector of President and Vice-President; but no Senator or Representative, or person holding an office of trust or profit under the United States can be appointed.

The number of electors in each State, as has already been observed, is equal to the whole number of Senators and Representatives to which each State is entitled in the Congress of the United States. This State, therefore, according to the last apportionment of Representatives, is entitled to nineteen Electors.

The time of choosing them may be determined by Congress, but the manner of their appointment in each State, depends upon the Legislature thereof. In this Commonwealth the methods have been various. At one time they have been chosen by the people in districts, at another, by the Legislature themselves, and at another, by a majority of all the voters in the Commonwealth.

It will depend upon future Legislatures to direct, in what manner, they shall in future be chosen; we can give the reader, therefore, no further information upon the subject.

CHAP. II.

Of the qualifications of State officers, with the time and manner of their election.

Sect. 1. GOVERNOR.

The following articles of the Constitution express the qualifications required of a Governor, and point out the time and manner of his election.

ART. 1. The Governor shall be chosen annually: and no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this Commonwealth, for seven years next preceeding; and unless he shall, at the same time, be seized, in his own right, of a freehold within the Commonwealth, of the value of one thousand pounds; and unless he shall declare himself to be of the Christain religion.

II. Those persons, who shall be qualified to vote for Senators and Representatives, within the several towns of this Commonwealth, shall, at a meeting, to be called for that purpose, on the first Monday of April annually, give in their votes for a Governor, to the Selectmen who shall preside at such

meetings; and the Town-Clerk, in the presence and with the assistance of the Selectmen, shall in open town-meeting, sort and count the votes and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall in the presence of the inhabitants, seal up copies of the said list, attested by him and the Selectmen, and transmit the same to the Sheriff of the County, thirty days at least before the last Wednesday in May; and the Sheriff shall transmit the same to the Secretary's office, seventeen days at least before the said last Wednesday in May; or the Selectmen may cause returns to be made to the office of the Secretary of the Commonwealth, seventeen days at least before the said day; and the Secretary shall lay the same before the Senate, and the House of Representatives, on the last Wednesday in May, to be by them examined: and in case of an election, by a majority of all the votes returned, the choice shall be by them declared and published. But if no person shall have a majority of votes, the House of Representatives shall, by ballot, elect two out of four persons, who had the highest number of votes, if so many shall have been voted for; but if otherwise, out of the number voted for;

and make return to the Senate, of the two persons so elected; on which the Senate shall proceed, by ballot, to elect one, who shall be declared Governor.

Sect. 2. LIEUTENANT-GOVERNOR.

"There shall annually be elected a Lieutenant-Governor of the Commonwealth of Massachusetts, whose title shall be—HIS HONOR—and who shall be qualified, in point of religion, property and residence in the Commonwealth, in the same manner with the Governor: and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a Governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner: and if no person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the Senate and House of Representatives, in the same manner as the Governor is to be elected, in case no one person shall have a majority of the votes of the people to be Governor."

Sect. 3. SENATORS AND COUNSELLORS.

"No person shall be capable of being elected as a Senator, who is not seized in his own right of a freehold within this Commonwealth, of the value of *three hundred pounds* at least, or possessed of personal estate to the value of *six hundred pounds* at least, or of both to the amount of the same sum, and who has not been an inhabitant of this Commonwealth for the space of five years immediately preceding his election, and at the time of his election, he shall be an inhabitant in the district for which he shall be chosen."

"There shall be annually elected by the freeholders and other inhabitants of this Commonwealth, qualified as in this Constitution is provided, forty persons to be Counsellors and Senators for the year ensuing their election; to be chosen by the inhabitants of the districts, into which the Commonwealth may from time to time be divided by the General Court for that purpose: and the General Court in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the Commonwealth, the limits of each district, and the number of Counsellors and Senators to be chosen therein; provided that the num-

ber of such Districts shall be never less than thirteen ; and that no District be so large as to entitle the same to choose more than six Senators. *Const.*

By an Act passed June 23, 1802, the Commonwealth was divided into fifteen Districts, for the choice of Counsellors and Senators, each of which is entitled to choose the number following, viz.

Suffolk	5.	Dukes County & Nantucket	1.
Essex	6.		
Middlesex	4.	Worcester	4.
York	2.	Cumberland	2.
Hampshire	4.	Lincoln, Hancock & Washington	2.
Plymouth	2.		
Bristol	2.	Berkshire	2.
		Norfolk	2.
Barnstable	1.	Kennebeck	1.

In the above division, the Districts retain the names of the Counties of which they are composed. The new County of Oxford, formed from a part of the Counties of York and Cumberland, is not mentioned. The reason is this. It was incorporated since the last division of the Commonwealth into Districts for the choice of Counsellors and Senators, and in the Act of Incorporation it is enacted, "That the towns and plantations within the said County of Oxford, in the voting for State Senators and Federal Representa-

tives, shall be considered as forming a part of their respective districts, heretofore known by the names of *York* and *Cumberland*."

The time and manner of Electing Counsellors and Senators is as follows.

"There shall be a meeting on the first Monday of April annually, forever, of the inhabitants of each town in the several counties of this Commonwealth; to be called by the Selectmen, and warned in due course of law, at least seven days before the first Monday in April, for the purpose of electing persons to be Senators and Counsellors."

"The Selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns, present and qualified to vote for Senators: and shall sort and count them in open town meeting, and in presence of the Town Clerk, who shall make a fair record, in presence of the Selectmen, and in open town meeting, of the name of every person voted for, & of the number of votes against his name; and a fair copy of this record shall be attested by the Selectmen and the Town Clerk, and shall be sealed up, directed to the Secretary of the Commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered, by the Town Clerk of such town, to the Sheriff of the County, in which such town

lies, thirty days at least before the last Wednesday in May, annually; or it shall be delivered into the Secretary's office, seventeen days, at least, before the said last Wednesday in May; and the Sheriff of each county shall deliver all such certificates, by him received, into the Secretary's office, seventeen days before the said last Wednesday in May."

"The Senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the Constitution; and shall, on the said last Wednesday in May, annually, determine and declare, who are elected by each District, to be Senators, by a majority of votes: and in case there shall not appear to be the full number of Senators returned, elected by a majority of votes for any District, the deficiency shall be supplied in the following manner, viz. The members of the House of Representatives, and such senators as shall be declared elected, shall take the names of such persons, as shall be found to have the highest number of votes in such District, and not elected, amounting to twice the number of Senators wanting, if there be so many voted for; and out of these, shall elect, by ballot, a number of Senators, sufficient to fill up the vacancies in such District; and in this manner, all such vacancies shall be filled in every District of the Commonwealth; and in like

manner, all vacancies in the Senate, arising by death, removal out of the State, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen." *Const.*

COUNCIL.

"There shall be a Council, for advising the Governor in the executive part of government, to consist of nine persons, besides the Lieutenant Governor, whom the Governor for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the Governor, with the said Counsellors, or five of them at least, shall and may, from time to time, hold and keep a Council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

Nine Counsellors shall be annually chosen, from among the persons returned for Counsellors and Senators, on the last Wednesday in May, by the joint ballot of the Senators and Representatives assembled in one room. And in case there shall not be found, upon the first choice, the whole number of nine persons, who will accept a seat in the Council, the deficiency shall be made up by the electors aforesaid, from among the people at large; and the number of Senators left, shall constitute the Senate for the

year. The seats of the persons, thus elected from the Senate, and accepting the trust, shall be vacated in the Senate.

Not more than two Counsellors shall be chosen out of any one district of this Commonwealth." *Const.*

Sect. 4. REPRESENTATIVES.

"Every member of the House of Representatives shall be chosen by written votes; and for one year at least, next preceding his election, shall have been an inhabitant of, and have been seized, in his own right, of a freehold of the value of one hundred pounds, within the town he shall be chosen to represent, or any rateable estate, to the value of two hundred pounds; and he shall cease to represent the said town, immediately on his ceasing to be qualified as aforesaid."

"The members of the House of Representatives shall be chosen annually, in the month of May, ten days, at least, before the last Wednesday of that month."

"There shall be, in the Legislature of this Commonwealth, a representation of the people, annually elected, and founded upon the principles of equality.

And in order to provide for a representation of the citizens of this Commonwealth, founded on the principles of equality, every corpor-

ate town, containing one hundred and fifty rateable polls, may elect one Representative; —every corporate town, containing three hundred and seventy-five rateable polls, may elect two Representatives: every corporate town, containing six hundred rateable polls, may elect three Representatives;—and proceeding in that manner, making two hundred twenty-five rateable polls the mean increasing number, for every additional Representative:—

Provided nevertheless, that each town now incorporated not having one hundred and fifty rateable polls, may elect one Representative. But no place shall hereafter be incorporated with the privilege of electing a Representative, unless there are, within the same, one hundred and fifty rateable polls.

And the House of Representatives shall have power, from time to time, to impose fines upon such towns, as shall neglect to choose and return members to the same, agreeably to this Constitution."

An Act for regulating elections was passed February 24, 1796, the first section of which relates exclusively to Representatives, and is therefore inserted in this place; it contains all the information necessary upon the subject, excepting what will be found in the next Section, in the laws regulating elections generally.

An Act for regulating Elections.

1. *BE it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same*, That the inhabitants of every corporate town having a right to choose a Representative or Representatives in the Legislature of this Commonwealth, shall be convened for that purpose annually in the month of May, ten days at least before the last Wednesday of the same month, by the Selectmen of such town or the major part of them: And it shall be the duty of such Selectmen, to summon and notify such meeting in the manner there legally established for calling other town meetings; and the selectmen present shall preside in such meeting, and shall regulate the same, and shall openly receive, sort and count the written votes which shall there be given by the inhabitants present, qualified to vote for Representatives; and shall forthwith publickly declare who is or are the person or persons elected; and shall cause the election to be recorded in the town records, together with the whole number of votes given in, and for whom they were given; and shall cause the person or persons so elected, to be notified

thereof, by a Constable of the town, or any other person specially authorised for that purpose by the Selectmen, within three days next afterwards; and the Selectmen present, or the major part of them, shall make and sign a certificate and return of such election, and shall cause the same to be delivered into the office of the Secretary of the Commonwealth, on or before the last Wednesday of the same month; or such elections shall be certified to the House of Representatives to their acceptance; and such certificate may be in the form following, viz.

Commonwealth of Massachusetts.

County of Pursuant to a law of this Commonwealth, the freeholders and other inhabitants of the town of qualified according to the Constitution, having been duly convened in town meeting, on the day of May current, for the choice of Representatives in the Legislature of this Commonwealth, did then and there elect A. B. being an inhabitant of said town, to represent them in the General Court, to be convened and holden on the last Wednesday of the same month. Dated at , the day of in the year of our Lord 180 , and in the year of the Independence of

the United States.

Selectmen of

The person chosen as aforesaid, was notified thereof and summoned to attend by me

Constable of

And where the Selectmen of any town, entitled to choose a Representative as aforesaid shall neglect to notify a meeting, or to preside or proceed therein as by this Act is required: And where any Town Clerk shall refuse or neglect his duty therein, to the prejudice of the rights of the electors, each and every Selectman and the Town Clerk so offending therein, shall respectively forfeit a sum not exceeding eighty dollars, nor less than forty dollars, according to the aggravation of the offence, upon a conviction thereof.

SECT. 5. *Laws regulating Elections of United States and State Officers generally.*

1. *An act for regulating elections.*

* 2. *And be it further enacted*, That the

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* *The first Section of the above Act has been already inserted under State Representatives, it would therefore be needless to insert it here.*

Selectmen of any corporate town or district, and the Assessors of any unincorporated plantation in the several counties of this Commonwealth, who shall neglect to call meetings of the inhabitants and others privileged there to vote for the election of Governor, Lieutenant-Governor, Counsellors and Senators, and to give due warning of the time and place of such meeting as required by the Constitution of this Commonwealth, or who shall refuse or neglect to preside in any such meetings, or to receive the votes of the qualified electors present, or who shall neglect to ascertain, declare and certify the number of votes, or who shall willfully make any false declaration or certificate thereof, to the prejudice of the rights of the electors, shall forfeit a sum not exceeding eighty dollars; nor less than forty dollars, to be recovered from each Selectman or Assessor who shall offend in the premises, according to the aggravation of each offence. And every Town Clerk, and Clerk or Assessors of any unincorporated plantation, present at any such meeting, who shall neglect or refuse to make a fair record of the votes, or a fair copy of such record, or to attest the same, or who shall refuse or neglect to make due and seasonable return thereof to the Sheriff of the county, or into the Secretary's office, as required by the Constitution of this Commonwealth, shall forfeit

a sum not exceeding eighty dollars, nor less than forty dollars, for each offence.

3. *And be it further enacted*, That the Selectmen and Assessors, authorised and required to preside in any meeting of a town or plantation which shall be convened for the election of Governor, Lieutenant Governor, Counsellors and Senators, Electors of the President of the United States, Representatives in Congress, or Representatives in the Legislature of this Commonwealth, shall have all the powers which are legally vested in the Moderator of town meetings for the regulation thereof.

And in such meetings the Selectmen or Assessors presiding shall have power, and it shall be their duty to prevent and refuse the vote of any person not qualified to be an elector, whose qualifications shall be determined according to the Constitution of this Commonwealth, or the Constitution of the United States, as the case may be.

4. *And be it further enacted*, That any Elector who shall give in more than one vote in any one election, and any person who shall be disorderly in any such meeting, shall forfeit a sum not exceeding *twenty dollars*, nor less than *ten dollars*, according to the difference and aggravation of each offence.

5. *And be it further enacted*, That if any Sheriff, when required by law to make re-

turn to the Secretary's Office, of the votes of the Towns and Plantations, or Districts in their several precincts, for any election as aforesaid, shall neglect to make such return within the time prescribed, he shall forfeit and pay a sum not exceeding *five hundred dollars*, nor less than *fifty dollars* for each offence.

6. *And be it further enacted*, That all forfeitures incurred by any breach of this Act, may be recovered by indictment, or by action of debt, in the name and to the use of the Commonwealth, to be found or brought in any Court proper to try the same.

7. *And be it further enacted*, That an Act passed in April, in the year of our Lord, one thousand seven hundred and eighty one entitled "An Act empowering the Selectmen to call town meetings for the choice of Representatives; and an Act, passed March eighteenth, one thousand seven hundred eighty eight, entitled "An Act to prevent neglect in Sheriffs, Selectmen and Town Clerks respectively, in not calling and presiding at town meetings, receiving and returning the votes for Governor, Lieutenant Governor, Senators and Counsellors, as is pointed out by the Constitution of this Commonwealth," be, and the same are hereby repealed: *Provided however*, that the said Acts shall continue and be in force for the recovery of any

penalties or forfeitures already incurred by any person for the breach thereof.

An act in addition to several laws regulating elections.

1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That it shall not be lawful for the Selectmen of any town or district, to appoint a meeting for the election of a Representative to the General Court on any day on which by law the Militia of this Commonwealth are specially required to do military duty; and the Selectmen thus appointing any such meeting, shall severally forfeit and pay a sum not exceeding *one hundred dollars*.

2. *Be it further enacted*, That no officer or soldier of the militia, shall be holden to do any military duty on any day (except on days which are or may be specially prescribed by law) on which the Selectmen or Assessors of any town or district, shall appoint a meeting for the election of a Representative to the General Court, or on the day pointed out in the Constitution for the election of Governor, Lieutenant Governor and Senators of this Commonwealth, or on any day which is or may be appointed for the choice of Electors of President and Vice President of the *United States*, or Representatives to Congress;

And it shall not be lawful for any such officer to exercise any military command on either of said days, unless in case of sudden invasion made or threatened, or in obedience to the orders of the Commander in Chief except as is herein before excepted; and every officer offending herein, shall, for each offence, forfeit and pay a sum not less than *ten*, nor more than *three hundred dollars*.

3. *Be it further enacted*, That it shall not be lawful for the Selectmen or Assessors of any town, district or plantation, presiding at a meeting for either of the elections aforesaid, to receive any vote, unless delivered in writing by the voter in person, and the Selectmen or Assessors who shall offend herein, shall severally forfeit and pay a sum not exceeding *one hundred dollars*.

4. *Be it further enacted*, That all fines and forfeitures for any breach of this act, may be recovered by indictment before the Supreme Judicial Court, or by action of debt before any Court proper to try the same, one half to the use of this Commonwealth, and the other half to the use of any person who shall prosecute or sue for the same.

[Passed June 29, 1798.]

An act in addition to an act entitled "an act in addition to the several acts for regulating Elections," and for repealing the first section of said act.

1. *BE it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same*, That it shall be the duty of the Assessors of each town and district within this Commonwealth, on, or before the first day of March, annually, to make out and deliver to the Selectmen thereof, a correct and alphabetical list of all such inhabitants of their respective towns or districts, as shall appear to them qualified by the Constitution of this Commonwealth, or of the *United States*, respectively, to vote for Governor, Lieutenant Governor, Senators, Representatives in the General Court or in Congress; which list it shall be the duty of the Selectmen of such town or district, at some time within ten days then next following, to revise and correct, as to them shall appear necessary, so that the same shall in their opinion, be a complete list of such of the inhabitants within their respective towns or districts, as shall be constitutionally qualified to vote in the elections aforesaid. And the assessors of every plantation are alike required to furnish themselves with like lists, on or before the tenth day of March, annually; and it shall be the duty of the Se-

lectmen of the several towns and districts, and the Assessors of plantations aforesaid, respectively, to publish the said lists within their respective towns, districts or plantations, by causing true copies thereof to be posted up at two or more public places in such towns, districts or plantations, fourteen days, at least, before the first Monday in April annually; and it shall also be the duty of the Selectmen of such towns or districts, and the Assessors of such plantations to be provided with, and have a complete list as aforesaid at every meeting for the choice of Governor, Lieutenant Governor, Senators, Representatives in the General Court or in Congress; which list shall be so corrected previous to the opening of any such meeting, as to contain all the qualified voters for the particular election then to be made; and no such meeting shall be opened at an earlier hour than eleven of the clock of the forenoon of the day of election; and it shall be the duty of such Selectmen or Assessors, to be in session at some convenient place immediately preceeding such meeting, for so long time as they shall judge necessary, to receive evidence of the qualifications of persons whose names have not been entered in the list published as aforesaid, and to give public notice of the time and place of such meeting, when they publish the said lists as before directed.

SECT. 2. *And be it further enacted*, That the first section of the act to which this is an addition, be, and the same hereby is repealed. [Passed March 7, 1803.]

An act in addition to the several Acts for regulating Elections.

* SECT. 2. *Be it further enacted*, That whenever a meeting is holden in any town or place, for the purpose of choosing persons for Counsellors and Senators, the Selectmen or Assessors, presiding at such meeting, be, and hereby are directed to call on the voters in such meeting, qualified for choosing such Officers, requiring each of them to give in their votes on one list for as many different persons as are then to be chosen to the same Office.

SECT. 3. *Be it further enacted*, That if any person at any meeting for an election for any of the Officers aforesaid, shall knowingly and designedly give in more than one vote or list, at any one time of ballotting at any such election, he shall, in addition to the fine already provided by law against any elector giving more than one vote in any election, forfeit and pay a fine, not exceeding *thirty dollars*.

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* *The first section of this act is repealed by the former one, and is therefore omitted.*

SECT. 4. *Be it further enacted*, That no person shall be permitted to give in his vote at any meeting of a town, district, or plantation, holden for an election to any of the Offices aforesaid, until the Selectmen of such Town or District, or the Assessors of such Plantation, presiding at such election, shall have had opportunity to enquire his name, and found the same in the list aforesaid; and any person wilfully voting, contrary to the provision of this Act, or who shall give any false answer to such Selectmen or Assessors, being duly thereof convicted, shall forfeit and pay a fine not exceeding *twenty dollars* for each and every offence, according to the nature and aggravation thereof.

SECT. 5. *Be it further enacted*, That if any Selectman or Assessor of any Town or District, or the Assessors of any Plantation, shall knowingly and corruptly neglect, or refuse to comply with, or to perform the several duties respectively required of him or them, as pointed out, in and by this Act, he shall, for each and every such offence, forfeit and pay a fine not exceeding *fifty dollars*, according to the nature and aggravation thereof.

SECT. 6. *Be it further enacted*, That all fines and forfeitures for any breach of this Act, may be recovered by indictment before the Supreme Judicial Court, or by action of debt before any Court proper to hear

and determine the same; one half to the use of this Commonwealth, and the other half to the use of any person who shall prosecute or sue for the same.

SECT. 7. *And be it further enacted*, That this Act shall be in force from and after the first day of July next.

[Passed March 7, 1801.]

An act in addition to an act, entitled "an act in addition to an act, entitled an act in addition to the several acts for regulating elections, and for repealing the first section of said act."

SECT. 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That any meeting mentioned in the first section of the act, entitled "an act in addition to an act, entitled an act in addition to the several acts for regulating elections, and for repealing the first section of said act," passed March the seventh, one thousand eight hundred and three, in any town where the number of qualified voters shall exceed five hundred, may be opened at an earlier hour than eleven of the clock in the forenoon, of the day of election, at the discretion of the Selectmen of such town, any thing in said act to the contrary notwithstanding.

SECT. 2. *And be it further enacted*, That

in any town, where the number of qualified voters shall exceed one thousand. it shall be the duty of the Selectmen of such town to be in session at some convenient place, on the day immediately preceeding such meeting; and where this shall happen on Sunday, then on the Saturday immediately preceeding such meeting, and for a time as much longer, previous to said day, as they shall judge necessary, to receive the evidence of the qualifications of persons mentioned in the first section of the act to which this is an addition.

[Passed March 15, 1805.]

CHAP. III.

Of the Qualifications of County Officers, with the time and manner of their election.

Sect. 1. REGISTER OF DEEDS.

The following "*Act for the more safe keeping the Registry of Deeds and Conveyances of Land, and for appointing the Time and Manner of choosing Registers,*" points out their qualifications and the manner of their election.

1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That there shall be chosen in each county within this Commonwealth, by the written votes of such persons as are by the constitution qualified to vote for representatives in the several towns, at their respective annual town meetings in the month of *March*, one thousand seven hundred and eighty six, some discreet suitable person, having a freehold within the same county, of the annual income of ten pounds at the least; the votes to be counted and sorted in the town meeting by such persons as shall be chosen to count and sort the votes for that meeting; the names of

the persons voted for, and the number of votes each person had, shall be recorded by the Town Clerk, in the town book, and an attested copy of such record shall be transmitted under seal to the next Court of General Sessions of the Peace, to be held within and for the county, on the first day of the Court's setting there, to be opened and compared with the like returns from the several towns in such county. And the person having the majority of the said votes, and accepting of the said office, after being sworn to the faithful discharge of the trust before the Supreme Judicial Court, or Court of Common Pleas, Court of Sessions, or two Justices of the Peace within the county *quorum unus;* and giving bond to the Clerk of the Court of General Sessions of the Peace in the said county, with two sureties in the sum of five hundred pounds, for the faithful discharge of his trust, shall be and continue in the said office five years, and until some other person shall be chosen and qualified in like manner in his stead, unless sooner removed or displaced by order of the Court of General Sessions of the Peace in such county, for misconduct in the discharge of his duty; and the person so chosen and qualified as aforesaid, shall reside and keep his office daily open in the shire town of the county, and therein keep the books, records, files, and papers to the said office belonging.

And be it further enacted, That upon the death, resignation, or removal of any Register, [illegible] two or more Justices of the Peace *quorum unus*, living in or near the shire town of the same county, shall issue their warrants directed to the Selectmen of the several towns within such county, ordering them forthwith to convene the inhabitants of their respective towns, qualified as the Constitution provides, to vote for representatives, and proceed to the choice of some meet person qualified as aforesaid to fill up the vacancy; and the said Justices shall make their warrants returnable to themselves at a certain day, as soon as conveniently may be, ordering the Selectmen to seal up and transmit a transcript of the record of the number of votes and person or persons voted for in their respective towns as before directed, together with the warrants; and the above said Justices shall at the same time give out their notifications to the other Justices of such county of their proceedings therein, notifying them to meet upon the day appointed for the return of said warrants, at some certain place in the shire town; and the major part of the justices of such county, who shall meet at the time and place assigned as aforesaid, shall open and compare the returns made as before directed, and the person having the majority of votes after being sworn, and giving bonds as aforesaid, shall

be the Register of Deeds for such county, until the time appointed by this act for the election of Registers of Deeds throughout the Commonwealth, unless sooner removed by the Court of General Sessions of the Peace of the same county, for misconduct in the discharge of his duty.

And be it further enacted by the authority aforesaid, That upon any second or subsequent removal of any Register of Deeds, for either of the causes aforesaid, or in case any vacancy shall happen in the office of Register of Deeds, in any county within this Commonwealth, before the month of *March*, one thousand seven hundred and eighty six, the same mode of procedure as is herein before provided in case of the death resignation or removal of any Register of Deeds, shall be constantly observed in order for a new choice from time to time, until some discreet and meet person, qualified as aforesaid, shall be chosen to the said office by the majority of the votes returned, in which case the person so chosen, after being sworn and obliged as aforesaid, shall be Register of Deeds for such county, until some other shall be chosen.

And be it further enacted, That upon a vacancy in the office of Register of Deeds in any county, the Clerk of the Court of Common Pleas of such county being first sworn before two Justices of the Peace, *quorum*

unus, for the faithful discharge of the trust, shall take into his custody the several books wherein the deeds and conveyances of land are recorded, together with the deeds and other papers to the said office belonging. And the said Clerk shall receive all deeds and other papers brought to be recorded during such vacancy, and he shall note thereon the time of their being received, and the record shall bare date accordingly, for which he shall be allowed six pence for each deed or paper, and no more; and such Clerk is also empowered, during such vacancy, to make out attested copies of any such deeds and other papers and records to him committed as aforesaid, which copies shall be valid to all intents and purposes, as though the same had been made out by any Register chosen, qualified, sworn and obliged as aforesaid, for which copies the said Clerk shall be allowed the same fees as is or may be provided for Registers in similar cases. And upon the appointment of a Register as aforesaid, he shall deliver up the said books, deeds and papers into his hands.

And be it further enacted by the authority aforesaid, That the qualified voters as aforesaid in each respective town within this Commonwealth, at their annual meeting in *March*, seventeen hundred and ninety one, and every five years from thence successively

following, forever, at their several town meetings in *March*, shall be, and hereby are empowered and required, to proceed to choose a Register of Deeds for each county respectively within this Commonwealth, qualified as in this act is directed, the manner and determination of the choice, initiation into office, and the duties and obligations he shall be under while in office, to be the same as in this act is before expressed.

And be it further enacted, That if upon comparing the votes that may be collected in *March*, one thousand seven hundred and eighty six, or in the month of *March* at any period five years afterwards, no person shall be chose by a majority of the whole votes returned, the Court of Sessions shall issue their warrants to the Selectmen of the several towns, to call a meeting of their respective towns to vote a second time for the choice of a Register, and make their warrants returnable at the next Court of General Sessions of the Peace to be held in the same county, and so *toties quoties*, until some one person shall be elected by the majority voting. And to the end there may not be too great a risque of fire by keeping more public records, papers, and files in one house under one roof than is necessary :

Be it further enacted, That no Clerk of any Court of Common Pleas, or of the Su-

preme Judicial Court, shall at the same time be the Register of Deeds for any county.

[Passed March 17, 1784.]

By this act, it will appear that each County in the Commonwealth is to choose one Register and no more. This we believe to be true as it respects all the counties in the state, excepting Hampshire, Berkshire, York and Oxford. These by additional acts have been divided into more than one District, viz. Hampshire into three. Berkshire into three, and York and Oxford into three. But as these laws do not effect their qualifications or the time and manner of their choice they are omitted.

By an Act passsed June 18, 1791. The Court of Sessions are authorised, whenever it shall happen that no person has a majority of votes for Register, to adjourn for the purpose of opening the votes returned, upon a new warrant, to some day previous to the next Court of Sessions, by law to be holden in the County.

Sect. 2. COUNTY TREASURER.

By a law passed March 23, 1786, it is enacted, "That there shall be annually chosen in each county within this Commonwealth, in the month of *March* or *April*, by the written votes of such persons as are by

the constitution, qualified to vote for Representatives in the several towns or districts, a discreet suitable person, being a freeholder, and resident in the same county, for a county Treasurer; the votes to be counted and sorted in the town or district meeting, by the Moderator thereof and Town Clerk; the names of the persons voted for, and the number each person had, shall be recorded by the Clerk, in the town or district book, and an attested copy of such record shall be transmitted under seal to the next Court of General Sessions of the Peace, to be held within and for the same county, on the first day of the Court's sitting; there to be opened and compared with the like returns from the several towns and districts in such county: And the person having the majority of the said votes, and accepting of the said office, after being sworn to the faithful discharge of the trust before the said court, or any two justices thereof, *quorum unus*, and giving bond for the faithful discharge of the trust, with sufficient sureties, in such penal sum as the Court shall direct, to the clerk of the peace for the same county, for the time being, and his successor in that office, shall continue in the said office, for the term of one year, and until some other person shall be chosen and qualified as aforesaid, in his room.

And in case, upon comparing the votes returned as aforesaid, no one person shall have a majority of the whole number of votes returned, or the person chosen shall decline accepting the office, or after accepting shall die, or resign, or remove out of the county, within the year; then, and in such case, it shall be lawful for the Justices of the same Court to appoint by ballot a suitable person, being a freeholder in the same county, to that office; and the person thus appointed by the Justices of the General Sessions of the Peace, and accepting the office, and being sworn to the faithful discharge of the trust, and giving bond as before directed, shall be Treasurer of said county, for the remainder of the year, and until some other person shall be chosen and qualified in manner as aforesaid."

CHAP. IIII.

Of the importance of Town Officers, a general sketch of some parts of their duty, and the time and manner of their Election.

Sect. I. THE IMPORTANCE OF TOWN OFFICERS.

Many, and in some places, nearly all town offices, are considered of very small importance, and it is with difficulty that any suitable person can be persuaded to accept of them. This is an evil which ought not to exist in a republican government, for no man should consider himself above performing the duties of any office, when called upon by the wishes of his fellow citizens. To those, who think it a diminution of their dignity, to perform the duties of the smaller offices of society, I would recommend a frequent perusal of the following passages extracted from the life of the learned Plutarch.

"He did not think that philosophy, or the pursuit of letters, ought to exempt any man from personal service in the community to which he belonged; and though his literary labors were of the greatest importance to the world, he sought no excuse in those from

discharging offices of public trust in his little city of Chæronea.

It appears that he passed through several of these offices, and that he was, at last, appointed archon, or chief magistrate of the city.

With regard to the inferior offices that he bore, he looked upon them in the same light, as the great Epaminondas had done, who, when he was appointed to a commission beneath his rank, observed, "that no "office could give dignity to him that held "it; but that he who held it might give "dignity to any office." It is not unentertaining to hear our philosopher apologize for his employment when he discharges the office of commissioner of sewers and public buildings. "I make no doubt," says he, "that the citizens of Chæronea often smile, "when they see me employed in such of- "fices as these. On such occasions, I gen- "erally call to mind what is said of Antist- "henes. When he was bringing home, in "his own hands, a dirty fish from the mar- "ket, some, who observed it, expressed "their surprise. It is for myself, said An- "tisthenes, that I carry this fish. On the "contrary, for my own part, when I am "rallied for measuring tiles, or for calcula- "ting a quantity of stones or mortar, I an- "swer, that it is *not* for myself I do these

" things, but for my country. For, in all " things of this nature, the public utility " takes off the disgrace; and the meaner " the office you sustain may be, the greater " is the compliment that you pay to the " public."

If such men as Plutarch and Epaminondas considered it no disgrace to accept of small offices for the good of the Public, will our country Gentlemen and Esquires discover their dignity or wisdom in refusing to accept them?

It is true that for the performance of the duties of Town offices, the pecuniary recompense is not in proportion to the service to be performed, but in general, the sacrifice is small, and in no case more than every good man ought cheerfully to make, when required.

But the refusal to accept of the smaller offices in towns is not the only error which prevails upon this subject, they are too frequently considered by the voters themselves as very unimportant. This error probably arises from the want of a due attention to the nature and design of our civil institutions.

Government is a system, composed of various parts, the object of which system is, " to establish justice, insure domestic tranquility, provide for the common defence,

promote the general welfare, and secure the blessings of liberty to ourselves and posterity." If the constitution and laws of this state are calculated for these purposes, as we believe they are, it will readily be perceived, that these objects cannot be completely obtained, unless all the parts of our system of government are carried into proper operation. It will also be readily perceived, that every office in the State, however small it may be considered, forms a part of our system of government; it follows, therefore, that every office considered in connection with the general system is highly important. The bad effects of a defect in one of the smaller parts of the system, may not be immediately felt, but in time it will extend itself from one part to another, until the whole becomes deranged.

Let then no office in our government be thought unimportant. Consider that, "society consists of a number of different circles, of various magnitudes and uses; and that circumstance, wherein the principle of patriotism chiefly consists, whereby the duty of patriotism is best practised, and the happiest effects to the general weal produced, is that it should be the desire and aim of every individual to fill well his own proper circle, as a part and member of the whole, with a

view to the production of general happiness."*

Sect. 2. OF THE DIFFERENT TOWN OFFICERS.

1. MODERATOR. It is the duty of this officer to preside at, and govern town meetings, except in those cases where it is the particular duty of the Selectmen.

2. TOWN CLERK. A Town Clerk is to record the proceedings of town meetings during the year for which he is chosen and until another is chosen and sworn in his stead. He is, in certain cases, to give copies of Proprietors Records—to record Searchers of Beef, Pork &c. —to swear Town officers,—to read the Riot Act and the Act against profane cursing and swearing at the annual town meetings in March or April —to record strays and lost goods—to issue a warrant for the sale of swine impounded—to keep the jury boxes—to record births, marriages and deaths—and to summon witnesses.

3. SELECTMEN or TOWNSMEN. 3, 5, 7 or 9, *able and discreet persons of good conversation.* Selectmen are officers of great im-

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* *Wilberforce.*

portance in towns, and their duty is very extensive. It does not, however, come within the plan of this work to give an account of their power and duty. We shall merely mention, that they are to summon all town meetings, to be overseers of the poor, and also Assessors, in towns which neglect to choose those officers, and that they are to appoint the following town officers, viz. *Searchers of beef, pork and fish—Engine Men— Measurers of Wood—Sealers of Weights and Measures—* and *Viewers and Sealers of Moulds for Bricks*—they are also to license *auctioneers.*

4. TREASURER. The duty of this officer is to receive from Collectors the monies by them Collected for the town, to prosecute those Collectors who are delinquent, to keep an account of the monies they receive for the town, and pay the same out agreeably to the direction of the Selectmen. They are also to enforce the payment of the taxes assessed by School Districts, and to sue Justices for fines which they have received that belong to the town.

5. ASSESSORS. *Three or more.* The general duty of these officers, is to assess the polls of, and estates within their town, their due proportion of state, county and town taxes, and commit them to the Constable or Con-

stables, Collector or Collectors of their town, if any such their be, otherwise to the sheriff or his deputy, with a warrant authorising their collection. Their duty is evidently important, whether considered as affecting the interests of those persons, who are possessed of taxable property, or as operating upon their right to vote in town affairs.

6. OVERSEERS OF THE POOR. *Any number not exceeding twelve.* Towns may or may not choose Overseers of the Poor, at their discretion. Where they do not choose them, the Selectmen are such ex officio. Their duty respects solely the support of the Poor of the town in which they are chosen.

7. FENCE VIEWERS. *Two or more judicious and discreet freeholders.* When the occupants of adjoining lands cannot agree upon a division of the fence between them, or have any dispute about the respective occupant's right in partition fences, or his or their obligation to maintain the same, either party upon application to two or more fence-viewers may have the same settled and determined.

8. TYTHINGMEN. Tythingmen are to inform of all offences against the act providing for the due observation of the Lord's day—and carefully to inspect all licensed

houses, and inform of all disorders or misdemeanors which they shall discover, or know to be committed therein. If the laws providing for the observation of the Lord's day, and for the regulation of licenced houses are such as ought to be carried into effect, is it not disgraceful to the state, that towns either neglect to choose Tythingmen, or if they do choose them, that those Tythingmen entirely neglect their duty ?

9. SURVEYORS OF HIGHWAYS. *Two or more.* Surveyors of Highways are to see that roads, within their limits are kept in repair. Those who neglect their duty, in this respect, are liable to be fined, and towns are liable to pay double damages to any person who is injured, in consequence of a defect in the bridges, causeways or roads which they are by law obliged to keep in repair.

10. SURVEYORS and MEASURERS *of boards, plank, timber and slitwork.* All boards &c, before they are offered for sale are to be surveyed and measured, and every town is obliged by law to choose persons for this purpose.

11. SURVEYORS of Shingles, Clapboards, Staves and Hoops. *One or more.* All Shingles, Clapboards, Staves and Hoops are to be made according to law, before they are exposed to sale. It is the duty of every town

to choose Surveyors for this purpose, and it is important that surveyors should attend strictly to their duty.

12. VIEWERS AND CULLERS of staves and Hoops. *Two or more.* These officers are to be chosen in those towns only from whence staves or hoops are usually exported beyond sea.

13. CONSTABLES. *One or more.* Where no Collectors are chosen, or being chosen, refuse to serve, the taxes are to be collected by the Constable or Constables. Constables are to execute Coroner's warrants, to serve and return venires for jurymen, and to serve writs in personal actions, not exceeding seventy dollars damage.

14. COLLECTORS OF TAXES. *One or more.* The duty of this officer relates to the collection of taxes. We shall, therefore, barely mention, and that because we believe it is not generally known, that they are obliged, once in two months, at least, to exhibit to the Selectmen a just and true account of all the monies they have received on the several taxes committed to them, and to produce the Treasurer's receipt for all the monies by them respectively paid into the treasury. Those Collectors, who neglect to render an account as aforesaid, are liable to forfeit and pay for every neglect, the sum of two and a half per cent on the sum or sums committed

to them to collect, to the use of the town of which they are collectors.

15. ASSAY MASTERS. These officers are to be chosen in those towns only where distilling is carried on.

16 FIRE-WARDS. In towns, where the qualified voters shall think it expedient, they may choose any number of Fire-Wards they may judge necessary.

17. CULLERS OF FISH. In seaport towns, a suitable number.

18. HOGREEVES. Two or more.

19. HEALTH COMMITTEE. In towns which judge it necessary, not less than five, nor more than nine.

20. HEALTH OFFICER. This Officer may be chosen in towns which think proper, in lieu of a Health Committee.

21. INSPECTOR OF LIME. In towns where lime is imported or manufactured, these officers are to be chosen, whose duty it is to inspect the quality of the lime and size of the casks.

22. FIELD-DRIVERS. Two or more.

23. FISH-REEVES. One or more.

24. OVERSEERS OF WORKHOUSES. In towns where work-houses are erected, three, five, seven, or more. Where several towns join together in erecting a work house, each town so joining shall choose three, or such

other number as all the towns engaged, shall agree upon.

25. POUND KEEPER.

26. SCHOOL COMMITTEE. The Minister and Selectmen of each town in the state, are to inspect the Schools in their respective towns, unless the town think proper to choose a School Committee, which they may do, or not, as they think proper.

The reader is not to suppose that the very short sketch we have given, of some of the duties of the several town officers, will be a guide to those officers, in the performance of their duty. This was a thing, which did not form any part of the plan of our work, and our only object, in the short sketch we have given was, that the general nature and design of those offices might be understood.

Sect 3. OF THE TIME AND MANNER OF CHOOSING TOWN OFFICERS.

Upon this subject, nothing more is necessary, than to publish the following act. Indeed, some parts of it might with propriety be omitted, but as it contains nothing but what relates to the regulation of towns, and the choice of town officers, no part of it, we presume, will be considered as unimportant.

An Act for regulating Towns, setting forth their Power, and for the Choice of Town Officers, and for repealing all Laws heretofore made for that Purpose.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the bounds of all townships shall be, and remain as heretofore granted, settled and established. And to prevent an interference of jurisdiction, the lines between towns shall be run, and the marks renewed within three years from the last day of *March* instant, and once every five years forever after, by two or more of the selectmen of each town, or such other persons as they shall in writing appoint, to run and renew the same; and their proceedings, after every such renewal of boundaries, shall be recorded in the respective town books. The selectmen of the most ancient town to give notice in writing unto the selectmen of the adjoining town, of the time and place of meeting for such perambulation, ten days beforehand; and the selectmen who shall neglect their duty in notifying or attending, either personally or by their substitutes, to perambulate the line, at the time and place assigned as aforesaid, shall severally forfeit and pay the sum of *five pounds*, two thirds to the use of the towns which shall com-

ply with their duty as aforesaid, and the other third part unto any two or more of the selectmen of the town so complying, who are hereby empowered to inform or sue therefor, in the Court of Common Pleas for the same county, at any time within two years after the forfeiture shall be incurred, and not afterwards.

II. *Be it further enacted by the authority aforesaid,* That the freeholders and other inhabitants of each town in this government, who shall pay to one single tax, besides the poll or polls, a sum equal to two thirds of a single poll tax, shall, in the month of *March* or *April*, annually, meet and assemble at such time and place, in the same town, as they shall be notified to attend, by the constable or constables of the town, or such others as the selectmen shall appoint to notify the same; and the said freeholders, and other inhabitants, shall then and there, by a major vote, choose a clerk (who shall be under oath truly to record all votes passed in such and other town-meetings during the year, and until another clerk shall be chosen and sworn in his stead, and also faithfully to discharge all the other duties of his said office) three, five, seven or nine able and discreet persons, of good conversation, inhabiting in the town, to be selectmen or townsmen, and overseers of

the poor, where other persons shall not be particularly chosen to that office (which any town may do if they shall think it necessary and convenient) three or more assessors, two or more judicious persons for fence-viewers, treasurer, surveyors of highways, surveyors of lumber, wardens, tything-men,* sealers of leather, measurers of wood, clerks of the market, constables, and other usual town-officers; the said officers to be chosen by ballot, or such other method as the voters agree upon. And the town-clerk, or two of the selectmen, shall forthwith make out a list of the names of all those who shall be then chosen into office, of whom an oath is by law required, and deliver the same to some constable or constables of the same town, together with a warrant to him or them directed, who is hereby required, within three days after receiving such warrant, to notify and summon each of the said persons to appear before the town-clerk, within seven days from the time of such notice, to take the oath by law prescribed to the office into which they are severally chosen; and every person who shall neglect to appear before the town-clerk, within the said seven days, and take the oath of office unto which he is chosen and summoned as aforesaid, which oath the town-clerk is

*This office by a late law, is rendered useless, and every measurer of Leather, is to stamp it with his own name.

hereby authorized to administer (unless such person is by law exempted from serving in the office) shall forfeit and pay to him or them that will inform or prosecute therefor, the sum of *thirty shillings*, except constables and such other officers, for whose neglect a different penalty is provided, two thirds for the use of the town, and the other third to the use of the prosecutor.

Provided always, That any person who shall take the oath of office before a Justice of the Peace, and file a certificate thereof with the town-clerk, within the said ten days, shall be exempted from the said fine; and every constable shall, at the expiration of the term of ten days from the time of receiving such warrant, make a return into the clerk's office of the same town, of the warrant to him committed as aforesaid, with his doings thereon, for a neglect of which, he shall forfeit and pay the sum of *forty shillings*, to be to the use of the town; the constable to be allowed such reasonable sum for his services upon this and other town business, as the inhabitants shall agree upon.

III. *And be it further enacted*, That no person shall be obliged to serve in any town office two years successively; nor shall any person in commission for any office, civil or military, church officer, member of the Council, Senate or House of Representa-

tives, for the time being, nor any one who has served in the office of a constable or collector of any town, district, parish or precinct, within seven years, be obliged to serve in the office of constable; and every person chosen to the office of constable, and not exempted as aforesaid, who shall refuse to take the oath to that office prescribed, and to serve therein, if he be able in person to execute the same, shall forfeit and pay to the use of the town, the sum of *five pounds*, and if in *Boston*, *Salem* or *Newburyport*, *ten pounds*, and shall, if present, forthwith declare his acceptance or refusal; and in case he shall not declare his acceptance, the town shall proceed to a new choice, and so from time to time until one shall accept and be sworn; and any person who shall be present and declare his refusal to serve in the office of constable, or who shall neglect, after being summoned as aforesaid, to take the oath of office, for the space of seven days next after such summons, and shall also neglect to pay the fine aforesaid, shall, upon the application of the town treasurer, be summoned before the Court of General Sessions of the Peace in the county in which such town lieth; and a certificate under the hand of the clerk, or two of the Selectmen, certifying that such person was legally chosen to the office of constable, shall be admitted as evi-

dence of the fact; and if the person summoned shall make default, or appearing shall not shew sufficient cause to the Court for his refusal, the Court shall order a warrant under the seal thereof, directed to any of the constables of the same town then in office, to levy the fine by distress and sale of the offender's goods and chattels, returning the overplus (if any be) together with the costs arising on such prosecution; and for want of goods and chattels, to commit the delinquent to prison, until the same shall be paid. And the town clerk shall make a record of such persons as shall from time to time, be sworn into office before him, or of such as shall file certificates of their being sworn as aforesaid.

IV. *And be it further enacted*, That when by reason of non acceptance, death, or removal of any person chosen to office in any town, at the annual meeting for the choice of town officers, or at any other time, or by reason of a person's becoming *non compos*, there is a vacancy, or want of such officers, the town, being orderly assembled in the manner this act directs, may proceed to a new choice of officers, to supply and fill up such vacancy; and the person or persons thus chosen and sworn before the town clerk, or a Justice of the Peace (in case an oath of office is by law required) shall have

the same power and authority to discharge the duties of the office, as though chosen at the annual meeting for the choice of town officers.

V. *And be it further enacted by the authority aforesaid*, That when there shall be occasion of a town meeting, the constable or constables, or such other person as shall be appointed for the purpose, by warrant from the selectmen, or the major part of them, shall summon and notify the inhabitants of such town, to assemble at such time and place, in the same town, as the Selectmen shall order, the manner of summoning the inhabitants, to be such as the town shall agree upon; and when ten or more of the freeholders of the town, shall signify, in writing, their desire to have any matter or thing inserted in a warrant for calling a meeting, the Selectmen are hereby required to insert the same in the next warrant they shall issue for a meeting, or call a meeting for the express purpose of considering thereof; and no matter or thing shall be acted upon in such a manner, as to have any legal operation whatever, unless the subject matter thereof, be inserted in the warrant for calling the meeting; and in case the Selectmen shall unreasonably deny to call a meeting upon any public occasion, any ten or more of the freeholders of such town may

apply to a Justice of the Peace within and for the same county, who is hereby authorised and empowered, to issue his warrant under his hand and seal, directed to the constable or constables of the town, if any such there be, otherwise to any of the freeholders applying therefor, directing him or them to notify and warn the inhabitants, qualified to vote in town affairs, to assemble at such time and place in the same town, as the said justice shall in his said warrant direct, and for the purpose in the same warrant expressed. And when by reason of death, removal or resignation of Selectmen, a major part of the number originally chosen shall not remain in office within any town, in every such case, a major part of the survivors, or of such as remain in office, shall have the same power to call a town meeting as a major part of the whole number first chosen.

VI. *And be it further enacted by the authority aforesaid*, That at every town meeting, a moderator shall be first chosen by a majority of votes, who shall be thereby empowered to manage and regulate the business of the meeting; and when a vote, declared by the moderator, shall immediately after such declaration, be scrupled or questioned by seven or more of the voters present, the moderator shall make the vote certain, by polling the voters, or such other

way, as the meeting shall desire. And no person shall speak in the meeting, before leave first had and obtained from the moderator, nor when any other person is orderly speaking; and all persons shall be silent at the desire of the moderator, on pain of forfeiting *five shillings* for the breach of every such order, to the use of the town: And if any person shall, after notice from the moderator, persist in his disorderly behaviour, then it shall be lawful for the moderator to direct such disorderly person, to withdraw from the meeting; and such disorderly person, upon his refusal or neglect to withdraw, shall forfeit and pay a fine of *twenty shillings* to the use of the same town; and may also, by direction of the moderator, be carried out of the meeting by some constable of said town, and put into the stocks, cage, or some other place of confinement, and there be detained for the space of three hours, unless the town-meeting shall sooner adjourn or dissolve. And all suits and informations for fines incurred by a breach of this act, not exceeding *forty shillings*, may be heard and determined before any Justice of the Peace in the same county, not an inhabitant of the same town, unto whom the penalty or any part thereof is given, who, upon conviction, may enforce the payment thereof by a similar process, as is herein prescribed in the

Court of General Sessions of the Peace for persons who refuse to serve in the office of constable.

Provided always, That town-meetings for the choice of governour, lieutenant-governour, and senators, shall be regulated as the constitution directs, and for the choice of representatives as is otherwise by law prescribed; any thing in this act contained to the contrary notwithstanding. And the moderator of any town-meeting, chosen as aforesaid, is hereby authorized, in case no Justice of the Peace be present, to administer to the clerk, in open town-meeting, the oath by law prescribed to the same office.

VII. *And be it further enacted by the authority aforesaid*, That the freeholders and other inhabitants of each respective town, qualified as aforesaid, at the annual meeting, for the choice of town officers, or at any other town-meeting regularly warned, may grant and vote such sum or sums of money, as they shall judge necessary for the settlement, maintenance and support of the ministry, school, the poor, and other necessary charges, arising within the same town; to be assessed upon the polls and property within the same, as by law provided; and they are also hereby empowered to make and agree upon such necessary rules, orders and by-laws, for the directing, managing and order-

ing the prudential affairs of such town, as they shall judge most conducive to the peace, welfare and good order thereof; and to annex penalties for the observance of the same, not exceeding *thirty shillings* for one offence; to enure to such uses as they shall therein direct; provided they be not repugnant to the general laws of the government; and provided also, such orders and by-laws shall have the approbation of the Court of General Sessions of the Peace of the same county: And may also allow and approve of any town or private way laid out by the selectmen of the same town; or alter or discontinue any town or private way, heretofore laid out and improved as such, when it shall appear that the same is unnecessary for the inhabitants of such town. *Saving always*, to any person aggrieved, or who thinks himself injured, liberty of applying for remedy to the Court of General Sessions of the Peace in the same county, who are hereby empowered and directed, to enquire into and determine the matter by a jury, thereunto appointed, as well with respect to the necessity and convenience, by such discontinuance, laying out, or alteration, as to the damage, that may happen or accrue, to any particular person or persons thereby; and thereupon to assess damages for the party injured, to be paid by such town; unles it appears, that

the person on whose behalf application has been made, had no just cause of complaint; in which case the complainant shall pay all such costs and charges as may arise by such appplication to the Court of Sessions. And the verdict of a jury being received and recorded, shall be final and conclusive. *Provided*, such application be made to the Court of General Sessions of the Peace, within twelve months after such way is approved, altered, or discontinued as aforesaid, and not otherwise.

VIII. *And be it further enacted by the authority aforesaid*, That the inhabitants of every town within this government, are hereby declared to be a body politic and corporate; and as such, may commence and prosecute any suit or action in any Court proper to try the same; and may also defend any suit or action commenced against them, and for this purpose, the said inhabitants, qualified and convened in manner aforesaid, may nominate and appoint one or more agents or attornies. The choice of the agent or attorney certified by the town-clerk, shall be deemed and taken sufficient evidence of such appointment. And when any suit shall be commenced against any town, (or any body corporate) a copy of the writ or original summons, or such other legal process as may issue against them, shall be left

with the clerk of such town, or with one or more principal inhabitants thereof (or with the clerk or some principal member of the body corporate) thirty days at least before the day of the sitting of the Court, unto which the same shall be returnable.

IX. *And be it further enacted by the authority aforesaid*, That all places incorporated by the name of districts, before the first day of *January*, one thousand seven hundred and seventy-seven, are hereby declared to be towns to every intent and purpose whatever; and places incorporated by the name of districts since the same first day of *January*, one thousand seven hundred and seventy-seven, or such places as may hereafter be incorporated by the name of districts, are and shall be entitled to all the privileges, and vested with all the powers in this act expressed, as amply to every intent and purpose, as they could have been if expressly named herein.

And whereas in divers laws, provision is made relating to the annual meetings in *March*, which it is necessary should be extended to the meetings holden in the month of *April*, in case the annual meeting of any town should be holden in that month:

X. *Be it therefore enacted by the authority aforesaid*, That all matters and things, which by any law or resolve of this Com-

monwealth, are directed to be done and transacted at a town-meeting in *March*, may hereafter be done, and transacted at a town-meeting in *April*; any thing in such law or resolve, to the contrary notwithstanding.

XI. *And be it further enacted by the authority aforesaid*, That all laws heretofore made for the purposes mentioned in this act, be, and they hereby are repealed, and rendered null and void.

[This act passed *March* 23, 1786.]

PART III.

OF THE VIRTUES WHICH PRESERVE, AND THE VICES WHICH RUIN REPUBLICS.

CHAP. I.

Of the advantages and evils of a Republic.

1. THE advantages of a REPUBLIC are, liberty, or exemptions from needless restrictions, equal laws, regulations adapted to the wants and circumstances of the people; public spirit, frugality, averseness to war, the opportunities which democratic assemblies afford to men of every description of producing their abilities and counsels to public observation, and the exciting thereby, and calling forth to the service of the Commonwealth, the faculties of its best citizens.

2. The evils of a REPUBLIC are, dissensions, tumults, factions, the attempts of powerful citizens to possess themselves of the empire; the confusion, rage and clamor which are the inevitable consequences of assembling multitudes, and of propounding questions of state to the discussion of the people, the delay and disclosure of public counsels and designs, and the imbecility of measures retarded by the necessity of obtaining the consent of numbers. PALEY.

3. REMARKS. The system of representation adopted by the Constitution of this Commonwealth, not only preserves the advantages, but avoids many of the evils of a Republic. Instead of a general assembly of the people, the state is divided into towns, the inhabitants of which, at stated times, as has been already shewn, meet in their respective towns, choose their Legislators, and manage their local concerns.

This preserves the freedom of election, and, at the same time, avoids the dangers resulting from too large an assemblage of the people. In addition to this, the checks provided by the Constitution against too great an assumption of power by any particular body of men in the state, may also with propriety be considered, as a great safeguard to the rights and liberties of the people. But all this will be insufficient, unless the people are possessed of knowledge and virtue sufficient to know and practice the virtues which will secure the advantages, and to avoid the vices which will produce the evils of a Republic. Ignorance and vice, like a torrent, sweep away with ease, the checks provided for the purpose of stopping them in their career of destruction.

To point out briefly, the virtues which will preserve, and the vices which will ruin the Commonwealth, is the object of the following Chapters.

CHAP. II.

Of love to our Country.

1. The first, and most important of all relative social duties, is that which we owe to our country. That we ought to study the interest of our country, is plain from considering, that the love of our families and even self-love, cannot be pursued, or established on any rational footing, but what will extend to our country (for it is impossible for all families and individuals to be happy in a ruined country) and from considering, that if no person loved his country, but every individual was indifferent about its interests, no country could subsist. BURGH.

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2. "*Remember that you are Romans*, said a commander to his soldiers, in the days of the old Republic; and that short harangue was of efficacy to brace their nerves for labor, and render them invincible in battle."*

While the Romans were thus easily animated with a love of their country, they were not only prosperous and happy at home, but highly respected and victorious abroad. *Remember that you are Americans*, should be sufficient to animate the citizens of the

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* *Marmontel.*

Commonwealth to sacrifice, when necessary, their health, their property, and even their lives, in defence of its rights and liberties. At all times, it should inspire them with a noble zeal for the public welfare, animate them to a faithful performance of their social duties, and stimulate them to practise and encourage those virtues which promote, and to discountenance those vices which disturb the peace and happiness of the Commonwealth.

CHAP. III.

Of Equality, and civil Liberty, in what they consist and how preserved.

Liberty, in a political sense, is the right of regulating our actions agreeably to the laws made by our own consent, or that of our Representatives, and not, as is sometimes considered, of doing whatever we please, whether right or wrong. The distinction ought to be understood, people ought to be sensible, that the preservation of liberty depends upon a cheerful compliance with laws, founded upon justice and equality, and to which they have given their consent.

We cannot explain our ideas upon this subject better, than by the following extracts.

I. A people enjoy the most perfect civil liberty, when the government, under which they are placed is of their own choice; when they conform to the laws which are enacted by themselves or their Representatives; and when no duties are enjoined, and no restrictions imposed by those laws, which are not conducive to the general happiness.

It is obvious, then, that nothing is more opposite to liberty than licentiousness.

Wherever there is liberty the people are subjects, not of men, but of the Constitution and Laws; for liberty consists in doing only what these permit. It forbids us to allow ourselves in any pursuits which are injurious to others; for if such permission was given to us, it would also be indulged to them. It implies, that within the limits of law and justice, we may act according to our own choice, and take such measures as we believe are conducive to our own happiness. The people, therefore, are free, so long as they are under the restraint of equal and just laws. But their freedom is lost, when the passions of men are unrestrained, and the laws are violated with impunity. The reign of justice is then over, and there is an end of manners, liberty and virtue. To escape from this state of licentiousness, the people in some countries, submit to the controul of a single tyrant, because they think it more tolerable to have one tyrant than a thousand. In a free state, therefore, the citizens ought to be guarded against the attempts, both of indiscreet men, who, from a mistaken zeal for liberty, would introduce anarchy and confusion, and of ambitious men, who assume the garb of patriotism and employ their talents to enflame the passions of the people, and excite their contempt of decency and order.

Upon order the public happiness is founded ; without it, society is a state of violence, and to maintain it, is to restrain injustice and oppression ; to guard the life and property of one man, against outrage from another : to protect the simple and innocent from the attempts of artifice and fraud ; and to produce such a state of tranquillity, that the most defenceless among the people may be safe, under the protection of government.

The principle of equality among the citizens, is recognized and established by the Constitution. It is an equality of rights, which ensures the same protection to each individual, and requires that all men of every description shall be amenable to justice. It results from equal government and impartial laws, when the way to honor and preferment is open to every one ; and the pretensions of no citizen are limited, except by the distinction of merit and capacity. But an equality of property never can exist, until all men have the same faculties, and are equal in prudence and industry ; and even if they were perfectly similar in these respects, still their property would be unequal, unless Providence should smile alike upon the labours of all, and grant to every man an equal share of prosperity. The inequality of property, therefore, arises from the nature of things, and not from any de-

fect in the form or administration of government. All that the best government can do, is to prevent that inequality which fraud, oppression, or violence would produce; to encourage frugality, and as far as justice and the constitution will permit, to restrain luxury and profusion; and to protect the lawful possessions of every man, so that each may enjoy the fruits of his labour in perfect security.

But though a spirit of equality is favourable to public happiness, an extreme degree of it is sometimes injurious and disgraceful. This happens when manners are exceedingly depraved, when upright magistrates are no longer respected, and parents and public instructors are treated with rudeness and insolence, when the child behaves himself proudly against the ancient, and the base against the honorable, and the natural and necessary distinctions in society are disregarded.

The terms LIBERTY and EQUALITY, in their true and just import, describe essential rights in a Republic, which ought to be assiduously preserved and cherished: But they are so liable to misconstruction, and have been understood in such different senses, that I presume you, gentlemen, will not think it unworthy of you to assist our fellow citizens in forming correct opinions concer-

ning them. For if on these points they shall entertain mistaken ideas, they might be in danger of loosing substantial benefits, by aiming at those which are imaginary.

In some nations, the genius and habits of the people seem not to admit of a free government; they appear to be incapable of that just and reasonable obedience to the laws, which is necessary in a free state. Few indeed have been wise enough to enjoy perfect liberty with moderation. How far the people of the *United States* are possessed of this wisdom, must appear from the experiment they are now making, upon the issue of which every thing valuable depends. You, Gentlemen, I have no doubt, will be solicitous to contribute to its success, by a faithful discharge of your duty. But all the efforts of legislative wisdom will not be sufficient, without the aid of those institutions which form the manners and morals of the people; and which tend to inspire them with veneration for the Supreme Being, with reverence for just authority, and respect for themselves.

[From Governor STRONG's Speech, June 5, 1804.]

2. *Extract from the answer of the Senate.*

The opinions, expressed by your Excellency, touching the perfection of civil liberty, its opposition to licentiousness, and its consistency with the restrictions of law and justice, are entirely in unison with the sentiments of the Senate, and with the principles of the Constitution. The dangers to liberty, from the indiscretion of mistaken men, cannot be too frequently deprecated.

In all free states, the tyrants, who have ultimately rested from the people their liberties, have commenced their machinations under the "garb of patriotism," and have risen into influence, by employing "their talents to inflame the passions of the people, and excite their contempt of decency and order." Whenever, therefore, in any country, a class or description of men arises, making loud and exclusive pretensions of friendship for the people, yet supporting those pretensions by no rare instances of private or public virtue; when such a class or description of men set themselves assidiously to deceive and corrupt the people, striving, by subtle insinuations, and by the circulation of anonymous falsehoods, to deprive honorable and virtuous men of the fair rewards of their talents and integrity, it becomes all those, who have a real regard for

the people, and who possess a just and noble zeal to perpetuate the blessings of liberty, order and religion, to be vigilant, active and instant, to maintain the fundamental principles of a free government, "piety, justice, moderation, temperance, industry and frugality:" and to have a particular attention to all those principles, in the choice of their officers and representatives."

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3. *Extract from the answer of the House.*

We perfectly and most sincerely agree with your Excellency, in your sentiments of civil liberty, in your estimation of order and regularity in society, and in your definition of equality.

Although it be obvious to thinking and cultivated minds, that nothing can be more opposite to liberty, than licentiousness; yet it is no less obvious, that by the undistinguishing, the one is frequently confounded with the other.

To a destitution of correctness of the public sentiment, on this subject, is unquestionably to be imputed most of the evils, which have, in ancient as well as modern times, disturbed, convulsed and subverted to their foundations, those sections of the

world, on which attempts have been made to maintain republican forms of government.

Knowing, as we do know, that it is infinitely easier to enkindle enthusiasm, and to set on fire the zeal, than to inform the understanding of man, we cannot watch too critically, or shield ourselves too strongly, against ambitious and designing men, who assume the garb of patriotism, and employ their talents to inflame the passions of the people, and excite their contempt of all decency and order.

It is utterly impossible for us to hesitate to concur with your Excellency in the position, that all other equality than that of rights, is wholly inconsistent with the nature of things.

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4. The principle of Democracy is corrupted, not only when the spirit of equality is extinct, but likewise when they fall into a spirit of extreme equality, and when every citizen wants to be upon a level with those he has chosen to command him. Then the people, incapable of bearing the very power they have intrusted, want to do every thing of themselves, to debate for the Senate, to execute for the magistrate, and to strip the judges of their office.

When this is the case, virtue can no longer subsist in the republic. The people want to

exercise the functions of the magistrates, who cease to be revered. The deliberations of the senate are slighted; all respect is then laid aside for the senators, and consequently for old age. If there is no more respect for old age, there will be none soon for parents; deference to husbands will be likewise thrown off, and the submission to masters. This licentiousness will soon taint the mind; and the restraint of command be as fatiguing as that of obedience. Wives, children, slaves, will shake of all subjection. No longer will there be any such thing as manners, order, or virtue.

The people fall into this misfortune, when those in whom they confide, desirous of concealing their own corruption, endeavour to corrupt. To prevent them from seeing their own ambition, they speak to them only of their grandeur; to conceal their own avarice, they incessantly flatter theirs.

The corruption will increase among the corruptors, and likewise among those who are already corrupted. The people will distribute the public money among themselves, and having added the administration of affairs to their indolence, they will be for adding to their poverty the amusements of luxury. But with their indolence and luxury, nothing but the public treasure will be able to satisfy their demands.

We must not be surprised to see their suffrages given for money. It is impossible to give a great deal to the people without squeezing much more out of them, but to compass this the state must be subverted. The greater the advantages they seem to derive from their liberty, the nearer they draw to the critical moment of losing it. Petty tyrants arise who have all the vices of a single tyrant. The small remains of liberty soon become unsupportable, a single tyrant starts up, and the people lose all, even the advantages of their corruption.

Democracy, hath, therefore, two excesses to avoid, the spirit of inequality, which leads to aristocracy or monarchy, and the spirit of extreme equality, which leads to despotic power, as the latter is completed by conquest. *Montesquieu.*

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5. *Civil liberty is the not being restrained by any law, but what conduces in a great degree to the public welfare.*

To do what we will is natural liberty; to do what we will, consistently with the interest of the community to which we belong, is civil liberty; that is to say, the only liberty to be desired in a state of civil society.

I should wish, no doubt, to be allowed to act in every instance as I pleased, but I

reflect that the rest also of mankind would then do the same ; in which state of universal independence and self-direction, I should meet with so many checks and obstacles to my own will, from the interference and opposition of other men's, that not only my happiness, but my liberty, would be less, than whilst the whole community were subjected to the dominion of equal laws.

The boasted liberty of a state of nature exists only in a state of solitude. In every kind and degree of union and intercourse with his species, the liberty of the individual is augmented by the very laws which restrain it ; because he gains more from the limitation of other men's freedom, than he suffers by the diminution of his own. Natural liberty is the right of common upon a waste, civil liberty is the safe, exclusive, unmolested enjoyment of a cultivated enclosure. PALEY.

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6. As distant as heaven is from earth, so is the true spirit of equality, from that of extreme equality. The former does not exist in managing so that every one should command, or that no one should be commanded ; but in obeying and commanding our equals. It endeavours not to be without a master, but that its masters should be none but its equals.

In the state of nature indeed, all men are born equal; but they cannot continue long in this equality. Society makes them loose it, and they recover it only by means of the laws.

Such is the difference between a well regulated democracy and one that is not so; so that in the former men are equal only as citizens, but in the latter they are equal also as magistrates, as senators, as judges, as fathers, as husbands, or as masters.

The natural place of virtue is near to liberty, but it is not nearer to extreme liberty than to servitude.

MONTESQUIEU.

CHAP. IV.

Importance of Education in a Republic.

I. It is in a republican government that the whole power of Education is required. The fear of despotic governments rises naturally of itself amidst threats and punishments; the honor of monarchies is favored by the passions, and favors them in its turn; but virtue is a self renunciation which is always arduous and painful.

This virtue may be defined, the love of our laws and of our country. As this love requires a constant preference of public to private interest, it is the source of all particular virtues; for they are nothing more than this particular preference itself.

This love is peculiarly proper to democracies. In these alone the government is intrusted to private citizens. Now, government is like every thing else, to preserve it, we must love it.

Has it ever been heard that kings were not fond of monarchy, or that despotic princes hated arbitrary power?

Every thing therefore depends on establishing this love in a republic, and to inspire

it, ought to be the principal business of education; but the surest way of instilling it into children, is for parents to set them an example.

People have it generally in their power to communicate their ideas to their children; but they are still better able to transfuse their passions.

If it happens otherwise, it is because the impressions made at home are effaced by those they have received abroad.

It is not the young people that degenerate; they are not spoiled till those of maturer age are already sunk into corruption.

MONTESQUIEU.

2. Perhaps the minds even of infants may receive impressions good or bad, at an earlier period than many imagine. It has been observed, that "education has a greater influence on manners, than human laws can have." Human laws excite fears and apprehensions, lest crimes committed may be detected and punished. But a virtuous education is calculated to reach and influence the heart, and to prevent crimes. A very judicious writer has quoted PLATO, who in shewing what care for the security of States ought to be taken of the education of youth, speaks of it

as almost sufficient to supply the place both of Legislation and Administration. Such an education, which leads the youth beyond mere outside shew, will impress their minds with a profound reverence of the Deity, universal benevolence, and a warm attachment and affection towards their country. It will excite in them a just regard to divine benevolence, which informs them of the original character and dignity of man; and it will inspire them with a sense of true honor, which consists in conforming as much as possible, their principles, habits and manners to that original character. It will enlarge their powers of mind, and prompt them impartially to search for *truth* in the consideration of every subject that may employ their thoughts; and among other branches of knowledge it will instruct them in the skill of political architecture and jurisprudence, and qualify them to discover any error, if there should be such, in the forms and administration of government, and point out the method of correcting them.

[SAMUEL ADAMS' *Speech, Jan.* 7, 1794.]

3. The useful institutions of learned teachers of Piety, Religion, and Morality in the Parishes, and of Grammar Schools in the towns of our Republic, the latter of which is in a great measure, peculiar to the northern states of the union, are exceedingly well adapted to the support of a republican form

of government: Because the maintenance of such a government depends altogether upon light and knowledge being universally disseminated in the body of the people. While our fellow citizens continue to be able to contemplate and understand their true interest, they will cherish these important and honorable institutions.

JOHN HANCOCK'S Speech, *May* 1791.

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4. * Lycurgus looked upon the education of youth as the greatest & most important object of a legislator's care. His grand principle was, that children belonged more to the state than to their parents; and therefore he would not have them brought up according to their humours and fancies, but would have the state entrusted with the general care of their education, in order to have them formed upon constant and uniform principles, which might inspire them betimes with a love of their country, and of virtue.

ROLLIN.

5. The long duration of the laws established by Lycurgus, is certainly very wonderful: but the means he made use of to succeed therein are no less worthy of admiration. The principle of these was the extraordinary care he took to have the Spartan youth brought up in an exact and severe

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* *A celebrated legislator of antiquity.*

discipline; for, as Plutarch observes, the religious obligation of an oath, which he exacted from the citizens, would have been a feeble tie, had he not by education infused his laws, as it were, into the minds and manners of the children, and made them suck in, almost with their mother's milk, an affection for his institutions. This was the reason why his principal ordinances subsisted above 500 years, having sunk into the very temper and hearts of the people, like a strong and good dye, that penetrates thoroughly. Cicero makes the same remark, and ascribes the courage and virtue of the Spartans, not so much to their own natural disposition, as their excellent education. All this shows of what importance it is to a state to take care that their youth be brought up in a manner proper to inspire them with a love for the laws of their country.

ROLLIN.

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6. Among the various subjects of state legislation, there is none more important to the preservation of our free government, or more interesting to the happiness of society, than the instruction of the people and particularly the education of youth: It is not enough to teach children to read and write, and understand the first rules of Arithmetic; it is also of importance to habituate them to restraint; to form their temper and manners

by the principles of benevolence and justice, and to awaken the useful energies of their understandings, and cherish the virtuous propensities of their hearts. A bad temper is often made a good one by education ; and the difference we observe in the characters of men, is, in a great measure, owing to the different impressions they received from the examples and precepts of their instructors.—In the presence of those who are respectable they are accustomed to controul their passions, and learn the important lesson of self command. With such an education they seldom fail to make useful and quiet members of society ; but those who are idle and unrestrained in early life, will be ready afterwards to oppose lawful government, and disturb the public peace. Moral qualifications are of the first importance in the office of instructors ; these virtues should serve for models in the conduct of life. If they are chargeable with vice or impiety, no attainments in knowledge can compensate for the contagion of their bad examples.

The celebrated Legislators of Antiquity, considered the education of children, as the most essential duty, and the most important exercise of government : It was regulated by the authority of the magistrates, and upon principles of the public good. Their institutions are calculated to inspire the youth with respect for the laws and love to their

country ; to form them to habits of temperance and truth, and teach them to honor their superiors and venerate old age. Our ancestors were impressed with the importance of this subject, and manifested an earnest solicitude, that their children might be educated in literature, and religious and moral principles. The university in the neighbourhood is an evidence of this. Soon after the settlement of the country they provided for the establishment of Schools for the children of the poor as well as rich ; and if parents neglect to teach their children to read, and bring them up in some honest employment, the Selectmen, with the assistance of two Magistrates, were authorised to take such children from them, and place them with masters to be strictly attended to. THE WHOLE INFLUENCE OF EDUCATION IS NECESSARY IN REPUBLICAN GOVERNMENTS, THEY DEPEND; FOR THEIR SUPPORT, UPON THE ENLIGHTENED AND AFFECTIONATE ATTACHMENT OF THE PEOPLE ; AND THERE IS NO GROUND TO EXPECT THEY WILL BE PRESERVED, UNLESS THE YOUTH ARE TRAINED TO KNOWLEDGE AND VIRTUE, AND TAUGHT, BY EXAMPLE AND EDUCATION, TO SUBMIT THEIR OWN TO THE PUBLIC WILL. OUR CONSTITUTIONS HAVE LIBERTY FOR THEIR VITAL PRINCIPLES, BUT THIS LIBERTY IS REASONABLE, AND SUBORDINATE

TO THE LAWS, AND WHENEVER IT SHALL BECOME SUPERIOR TO LAW, IT WILL DEGENERATE TO LICENTIOUSNESS AND BE LOST.

CALEB STRONG'S Speech, *June* 1801.

CHAP. V.

Religion, Morality and Virtue indispensable supports of a Republic.

1. Of all the dispositions and habits which lead to political prosperity, Religion and Morality are indispensable supports. In vain would that man claim the tribute of patriotism, who would labour to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and cherish them—a volume could not trace all their connexions with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? and let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be con-

ceded to the influence of refined education on minds of peculiar structure; reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true that virtue or morality is a necessary spring of a popular government. The rule indeed extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

WASHINGTON.

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2. True Christian benevolence is always occupied in producing happiness to the utmost of its power, and according to the extent of its sphere, be it larger or more limited; it contracts itself to the measure of the smallest; it can expand itself to the amplitude of the largest. It resembles majestic rivers, which are poured from an unfailing and abundant source. Silent and peaceful in the outset, they begin with dispensing beauty and comfort to every cottage by which they pass. In their further progress they fertilize provinces and enrich kingdoms. At

length they pour themselves into the ocean; where changing their names, but not their nature, they visit distant nations, and other hemispheres, and spread throughout the world the expansive tide of their beneficence.

WILBERFORCE.

Religious knowledge forwards all useful and ornamental improvements in society. Experience shows, that in proportion as it diffuses its light, learning flourishes, and liberal arts are cultivated and advanced. Just conceptions of religion promote a free and manly spirit. They lead men to think for themselves; to form their principles upon fair enquiry; and not to resign their conscience to the dictates of men; hence they naturally inspire aversion to slavery of every kind; and promote a taste for liberty and laws. Despotic governments have generally taken the firmest root among nations that were blinded by Mahometan or Pagan darkness; where the throne of violence has been supported by ignorance and false religion. In the Christian world, during those centuries in which gross superstition held its reign undisturbed, oppression and slavery were in its train. The cloud of ignorance sat thick and deep over the nations; and the world was threatened with a relapse into ancient barbarity. As soon as the true *knowledge of the Lord* revived, at the auspicious era of the

reformation, learning, liberty, and arts, began to shine forth with it, and resume their lustre.

But the happy influence which religion exerts on society, extends much farther than to effects of this kind. It is not only subsidiary to the improvement, but necessary to the preservation, of society. It is the very basis on which it rests. Religious principle is what gives men the surest hold of one another. That last and greatest pledge of veracity, an oath, without which no society could subsist, derives its whole authority from an established reverence of God, to whom it is a solemn appeal. Banish religious principle and you loosen all the bonds which connect mankind together; you shake the fundamental pillar of mutual confidence and trust: you render the security arising from laws, in a great measure, void and ineffectual. For human laws and human sanctions, cannot extend to numberless cases, in which the safety of mankind is deeply concerned. They would prove very feeble instruments of order and peace, if there were no checks upon the conduct of men from the sense of divine legislation—if no belief of future rewards and punishments were to overawe conscience, and to supply the defects of human government.

Indeed, the belief of religion is of such importance to public welfare, that the most ex-

pressive description we could give, of a society of men in the utmost disorder, would be to say, that there was no fear of God left among them. Imagination would immediately conceive of them as abandoned to rapine and violence, to perfidy and treachery; as deceiving and deceived, oppressing and oppressed; consumed by intestine broils, and ripe for becoming a prey to the first invader. On the other hand, in order to form the idea of a society flourishing in its highest glory, we need only conceive the belief of Christian principles exerting its full influence on the hearts and lives of all the members. Instantly, the most amiable scene would open to our view. We should see the causes of public disunion removed, when men were animated with that noble spirit of love and charity which our religion breaths; and formed to the pursuit of those higher interests, which give no occasion to competition and jealousy. We should see families, neighborhoods, and communities living in unbroken amity, and pursuing, with one heart and mind, the common interest—sobriety of manners, and simplicity of life restored—virtuous industry carrying on its useful labours—and cheerful contentment every where reigning. Politicians may lay down what plans they please for advancing public prosperity: but, in truth, it is the prevalency of such principles of religion and

virtue, which forms the strength and glory of a nation. When these are totally wanting, no measures, contrived by human wisdom, can supply the defect. In proportion as they prevail, they raise the state of society from that sad degeneracy into which it is at present sunk; and carry it forward under the blessing of heaven, towards that happy period, when *nation shall not lift up their sword against nation, nor learn war any more.*

BLAIR.

CHAP. VI.

Fatal consequences of party spirit.

1. One of the greatest curses of our nation, and of liberty in general, is that of our unhappy divisions and parties in religion and politics. As for the first, it is a subject of too serious and important a nature to be made a mere badge of faction, or a bone of contention. The design of religion is to improve and dignify our natures, to correct our errors in judgment, and to regulate our lives. And whoever applies it as a tool of state, as an artifice for aggrandizing himself or his friends, and a cloak to conceal his secular views, is guilty of prostituting the most sacred thing in the world to the vilest uses.

As for political parties, it is notorious, that those who assume to themselves the most splendid titles of being on the patriot side, or country interest, and against the court, as their cant is, generally make a clamour for pretended liberty, and the good of their country, only to have their mouths stopped with a place or a pension; and that on the other hand those who stand up in defence of all the measures of those in power, without distinction, only do so with a view to get or keep some emolument. As it is inconceivable that either one or the other party should be constantly in the right, or invariably in the wrong (you may conclude that whoever inclines universally for or against either side, without ever altering his opinion, is either a man of very mean abilities, or has some indirect scheme in view. The trimmer, who gives his vote sometimes with one side, and sometimes with the other, according to the view he has of the consequences, is the only man of integrity. And I cannot help advising my readers to look upon all parties, all who make either religion or politics, a party affair, in the same light, and to keep clear of all sides alike; making it their business to consult the real good of their country, and the real welfare of their souls, without any eye to the sordid gains of corruption, or any desire to fight the battles of either party.

To conclude, our duty to our country comprehends all the relative duties, and we are to sacrifice private interest, family, and life itself to it, when called upon; and are to obey its laws in all cases, where they do not clash with the only superior authority in the universe, I mean the divine.

BURGH.

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2. Is it not monstrous, that, by means of the madness and insolence of party, such a degree of arrogant and seditious virulence is worked up in the spirits of the people, that the lowest of the mob thinks himself wise enough to take to task the governors of the state, and assumes the liberty, over his cups, to rail at the legislators of his country; by which means, the best constitutioned kingdom upon earth seems hastening to a state of confusion; while the people's reverence for lawful authority, whereby obedience subsists, is destroyed, the measures of government are embarrassed; and our governors discouraged from attempting to alter, or new-model any thing, that may be amiss; since nothing can be done without clamour and disturbance, and laws, when enacted, are, through the perverseness of the people, of very little efficacy.

——— BURGH.

3. The principal cause of the weakening and declension of the Greeks, was the dis u-

nion which rose up among themselves. The Persians, who had found them invincible on the side of arms, as long as their union subsisted, applied their whole attention and policy in sowing the seeds of discord among them. For that reason they employed their gold and silver, which succeeded much better than their steel and arms had done. The Greeks, attacked invisibly in this manner by bribes secretly conveyed into the hands of those who had the greatest share in their government, were divided by domestic jealousies, and turned their victorious arms against themselves, which had rendered them superior to their enemies.

Their decline of power from these causes gave Philip and Alexander opportunity to subject them. Those princes, to accustom them to servitude the more agreeably, coloured their design with avenging them upon their ancient enemies. The Greeks gave blindly into that gross snare, which gave the mortal blow to their liberty. Their avengers became more fatal to them than their enemies. The yoke imposed upon them by the hands which had conquered the universe, could never be removed ; those little states were no longer in a condition to shake it off. Greece, from time to time, animated by the remembrance of its ancient glory, roused from its lethargy, and made some attempts to reinstate itself

in its ancient condition ; but those efforts were ill concerted, and as ill sustained by its expiring liberty, and tended only to augment its slavery ; because the protectors, whom it called into its aid, soon made themselves its masters : so that all it did was to change the fetters and to make them the heavier.

ROLLIN.

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4. There is no evil to which free governments are more exposed, than the prevalence of party spirit. The extreme violence of this spirit degrades the character of a nation, and vitiates the morals of the people ; it has proved fatal to almost every other Republick, either by enabling a successful Chief to establish his empire on its ruins, or by weakening its ability to oppose foreign invasion ; it tends to pervert the judgment as well as corrupt the heart, and renders the subjects of it, unsocial and intolerant. Men, who in the ordinary commerce of life, would disdain to make use of deception, when actuated by the rage of party, will give curency to reports, which at least they must think doubtful ; their pretended patriotism degenerates into an eagerness to support party principles ; & in order to influence opinions or measures, or to retaliate supposed injuries, they have no scruple in violating the plainest rules of

decency and justice. Our sentiments on political subjects will be different, but this diversity, if in expressing it we confine ourselves within the limits of truth and candor, will not be injurious, and if it produces an honourable emulation to promote the publick good may even be useful. It is impossible that all should be of one opinion and it is a reasonable indulgence to suffer every man to enjoy his own; in many cases, however, an open and fair examination of publick measures, is necessary, to enable the people to form a correct judgment concerning them; and if the current opinion is different from ours, we may endeavour, by calm discussion, without artifice or calumny, to correct the supposed error. But the man who unnecessarily excites publick alarm or resentment, is a disturber of the peace, and whatever his pretences may be, he is actuated by improper motives, and has no regard to the interest of his country.

[*Extract from Gov.* STRONG'S *Speech June* 1, 1802.]

I have already intimated to you the danger of parties in the state, with peculiar reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controuled, or represed: but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism; but this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation, on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless, ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-

founded jealousies and false alarms; kindles the animosity of one part against another, foments occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passion. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true, and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency it is certain there will always be enough of that spirit for every salutary purpose. And there being constant danger of excess, the effort ought to be, by force of public opinion, to mitigate and assuage it. A fire not to be quenched, it demands uniform vigilance to prevent its bursting into a flame, lest instead of warming, it should consume.

WASHINGTON.

CONCLUSION.

CITIZENS *of* MASSACHUSETTS.

You inherit a land, consecrated by the labours, the perils, the sacrifices and the blood of your ancestors, to civil and religious liberty. The inheritance they have left you is of inestimable price. It is not so much the value of your lands, your houses, your flocks or your treasures, as the principles of government and religion you inherit, which ought to inspire your gratitude and reverence for your noble and generous benefactors.

Hitherto you have improved the inheritance. In the language of scripture, "the wilderness has budded and blossomed like the rose." From the Rock at Plymouth where your fore-fathers landed you have spread yourselves over a large extent of territory. Where once roamed the beasts of the forest, and beings, though in form and shape human, but little superior, we now behold a race of civilized men, cultivating the arts and sciences, and enjoying the blessings of a good form of government. Where once stood the wigwam, which scarce sheltered the savage who built it from the storms and inclemencies of the weather, we now behold stately edifices erected and dedicated to the public worship of God, and the administration of justice; and elegant houses

which serve for the comfort and convenience of their inhabitants and add ornament to the country. From a few, you have become many, from a colony, you have become an independent, from a weak, you have become a powerful state. You are now in the full possession and enjoyment of all that civil and religious liberty which a rational people can wish or expect, or which it is in the power of any government to afford.

But be not deceived. Think not the God who protected your fathers in obtaining, will protect you in the enjoyment of your present happy situation, unless like them you prove yourselves worthy, by a constant practice of their virtues.

Suffer me, upon this subject, to submit a few reflections to your consideration.

The first settlers of this state were from necessity laborious, active and industrious. The practice of these virtues naturally inclined them to seriousness and frugality, and rendered them healthy and robust. While their bodies were thus free from the enervation of luxury, their minds were naturally active and independent. This will account, in a great measure, for the innumerable hardships they endured with patience, while converting the forests into fields for a scanty subsistance, and at the same time contending with numerous tribes of barbarous Indians; and afterwards in their

conflict, not with the untutored savage of the wilderness, but with a powerful nation, famous for her skill and courage in war.

Our ancestors, however, form not a solitary example of the wonderful superiority of industry over idleness, of frugality over extravagance, of a robust body & an independent and virtuous mind, over those weakened by vice, luxury and dissipation.

We are informed by history that the small states of Greece, with a few hardy soldiers, were able to oppose the innumerable, but weak and servile army of Xerxes, king of Persia.

History informs us that the Romans, while they retained their virtues, were invincible.

It also informs us that with the introduction of luxury, idleness and corruption, commenced the ruin of the Grecian and Roman republics.

Does not the present state of manners, in this and the other united states, give too much reason to fear that the seeds of our own destruction are already sown? Do not many of our citizens, whose incomes would be more than sufficient to support them in a decent and frugal manner, by introducing into their families an expensive, extravagant mode of dress and living, not only waste their estates, weaken the vigour of their bodies and minds, but destroy their morals, and become from their own vices and folly,

turbulent citizens, haters of government and enemies to their country.

Indeed, in whatever point of view we consider idleness and industry, we shall find one the destroyer, the other the promoter of health, happiness and virtue. I cannot impress the truth and importance of this idea upon your minds, better than by the following quotation from one of Doctor Blairs celebrated sermons.

"Industry is not only the instrument of improvement, but the foundation of pleasure. Nothing is so opposite to the true enjoyment of life, as the relaxed and feeble state of an indolent mind. He who is a stranger to industry, may possess, but he cannot enjoy. For it is labour only which gives the relish to pleasure. It is the appointed vehicle of every good to man. It is the indispensible condition of our possessing a sound mind in a sound body. Sloth is so inconsistent with both, that it is hard to determine, whether it be a greater foe to virtue, or to health and happiness. Inactive as it is in itself, its effects are fatally powerful. Though it appears a slowly flowing stream: yet it undermines all that is stable and flourishing. It not only saps the foundation of virtue, but pours upon you a deluge of crimes and evils. It is like water which first putrifies by stagnation, and then sends up noxious vapours, and fills the atmosphere with death."

Another subject to which I would invite your particular attention is the choice of your civil officers.

Unhappily for the Commonwealth your sentiments upon political subjects are divided. This division has introduced a violent party spirit, which in many places has destroyed all harmony among neighbours, and insinuated itself into all your proceedings, as well private as public. Its effects have already been, and if continued, will be still more injurious to the state.

In a republican government, like your's, freedom of opinion, of speech and debate ought not to be controuled, and the honest exercise of this freedom will never endanger your peace and safety. But when perverted, when instead of using the privilege of speaking freely upon political measures for the purpose of correcting errors, it is employed to gratify ambition at the expence of conscience, to promote measures at the expence of truth, and to palm upon the public for patriotism, a hypocritical zeal for their good, then indeed it becomes dangerous to the community.

That there are men in all free governments, that we already have such in this Commonwealth, who pervert the freedom of speech to the base purposes we have mentioned, will not be questioned. It is the duty of the people to find them out and

by their suffrages to convince them that they regard their conduct with abhorrence. That a large majority of the citizens of this Commonwealth are honest in their professions, that they would cheerfully acquiesce in measures calculated to promote the general welfare, we always have, & do still believe. But they are liable to be deceived. Many ambitious, designing demagogues are possessed of powerful talents, and making it their great study to please, it is not a matter of surprise, that many, who are but little acquainted with human nature, and have but few means of information, should be imposed upon.

To avoid this imposition, learn to detect the arts by which it is attempted to deceive you.

As one test to try a man's political honesty, enquire so far as you are acquainted, into his moral character, his private conduct and his transactions with the world. Is he frugal, is he industrious, is he honest in his dealings, is he candid, is he mild, is he benevolent, then be assured he will never knowingly deceive or injure you. But is he idle, is he dissolute, is he dishonest in his dealings, is he positive, is he bold and overzealous, is he haughty and tyranical to his inferiors, believe me, that man is not to be trusted with power. Though he assumes the form of an Angel, though he profess the

most sacred regard for your rights and liberties, and would convince you by all the arts of insinuation, by the most flattering and specious address, believe him not, he is not to be trusted, "*the tyger crouches before he leaps upon his prey.*"

As another test, learn to distinguish between real and pretended *patriotism.*

The former, in the language of the honorable William Smith, formerly a distinguished member of Congress, "announces itself in deeds of public utility, delights in the maintenance of law, in the support of order, in respect to the magistracy, in enforcing by precept and example every moral and religious duty, and displays itself in habits of industry, sobriety and frugality, in the virtuous education of one's family, and in the faithful performance of all the relative duties of a man and a citizen."

Pretended, or "*mock patriotism,*" in the language of the same enlightened statesman, is that, "which in all ages and in all free countries has been seized on by ambitious demagogues as a cloak to cover base and insidious designs, which bedecked with the alluring garb of a tinsel jargon, has been assumed to conceal the foulest purposes; which, under the mask of hypocrisy, and the parade of pompous language has been ever found subservient to the most despicable selfish views, which, at one time has

been employed as a step ladder to office and power, and at another as an engine of destruction, to rival popularity and obnoxious competitors," it is that, "which to the knaves has been the syren song of seduction to cajole and ensnare the fools, which blazons its own merits in ranting declamation and frothy professions, which draws from time to time, out of non existence, little ephemerous insects which glitter for a moment in the glare of their own existence; and then dissolve, and sink into their original nonentity: which while it utters from the lips the most specious and devout ejaculations for the public weal, impiously bears in the heart the most atrocious designs against public order, public tranquillity and national independence."

In all your elections, be careful to choose those men, and those only, who possess independent and virtuous minds, who consider their own and their country's welfare as inseparably united, and who would sooner sacrifice their lives, than their honour, their principles, or their conscience.

"When a principle of uprightness is known to guide the choice of men, it must then be merit and merit alone, that can hope for preferment. Talents, exalted qualities, and eminent services, form the only admissible claim: the candidate for honours must render himself worthy of them. Intrigue is

discountenanced, and emulation is animated. Ambition is obliged to proceed by manly ways, and starting at the thought of being detected, abandons her little schemes of perfidy and cunning."*

If you are governed by this principle it will bring into fashion the virtues, which have, and which will, while properly encouraged, continue to support the dignity, the happiness and prosperity of the state. "When virtue is in fashion, the seeds of it will be sown in every heart. Public estimation is a kind of sun in the moral world, that warms, that animates, and calls forth the latent principles of truth and honor." ‡

Another subject which demands your attention, is a knowledge of your duty relative to elections.

"On fair and uncontrouled elections, depends under God, the whole superstructure of our government—should corruption ever insert itself in our elections, there would be great danger of corruption in our government." §

To avoid the various evils which would result from unfair and partial elections, it is absolutely necessary that you should be acquainted with the Constitution and Laws which regulate them. Without this knowledge you will be liable to imposition, and depend upon it, there will never be wanting wicked men ready to take advantage of your

*Marmontel. ‡Ibid. §S. Adams.

ignorance. This knowledge, on account of the party spirit which prevails in the state, is at present more particularly necessary. For among the many bad effects of party spirit, its tendency to corrupt your elections is not the least. When it rages with violence, truth and reason are disregarded, and in the zeal to promote private interest, or to obtain a temporary triumph, corruption, unless disheartened by your knowledge of the rights and privileges of voters, will insert itself in your elections, the principles of your Constitution, that Palladium of your Civil & Religious Liberties will be violated, and all its salutary checks and provisions destroyed.

THE END.

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